

FAIRFAX DEVELOPMENT REGULATIONS

Adopted by the Fairfax Select Board on February 14, 2011.

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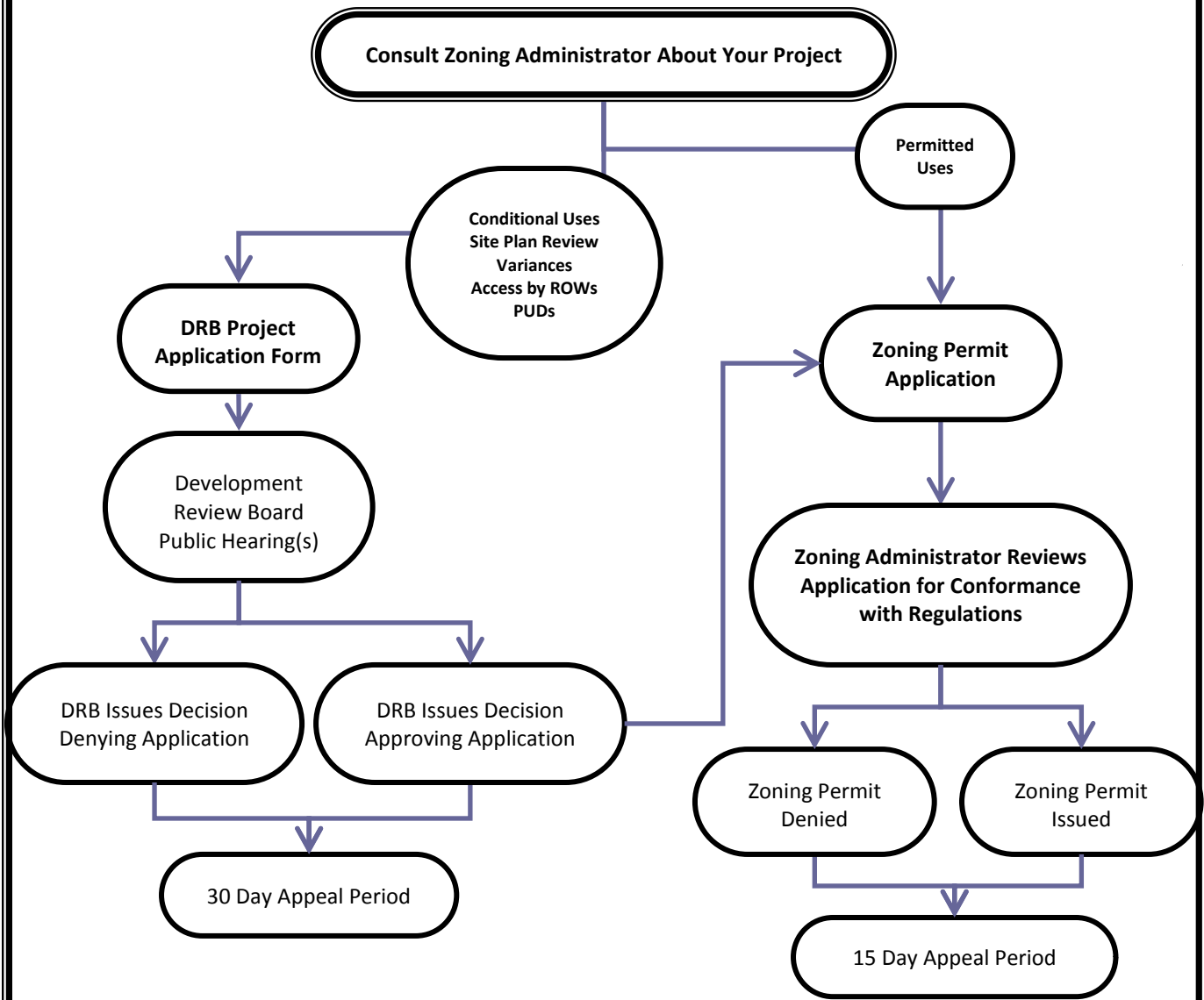
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Figure 1.1 How to Get a Zoning Permit: At a Glance



Text Box 1.1 Important Abbreviations

DRB: Development Review Board

The Act: The Vermont Planning & Development Act, 24 VSA, Chapter 117

VSA: Vermont Statutes Annotated

Regulations: The Fairfax Development Regulations

ZA: Zoning Administrator

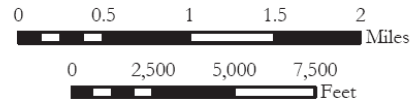
PUD: Planned Unit Development

ROW: Right-of-Way

Statement on Town Highways: Town of Fairfax Statement of Procedures and Standards Regarding Town Highways

ZONING MAP

TOWN OF FAIRFAX



Vermont Coordinate System
Transverse Mercator, NAD 83.

For planning purposes only.

Prepared by:
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LEGEND

Proposed Zoning Districts

- Rural
- Conservation
- Growth Center
- Mixed Use
- Residential
- Recreation
- 100 Year Flood Zone Overlay

Transportation Features

- Interstate Highway
- State Highway
- Class 2 Town Highway
- Class 3 Town Highway
- Class 4 Town Highway
- Private Road

Surface Water Features

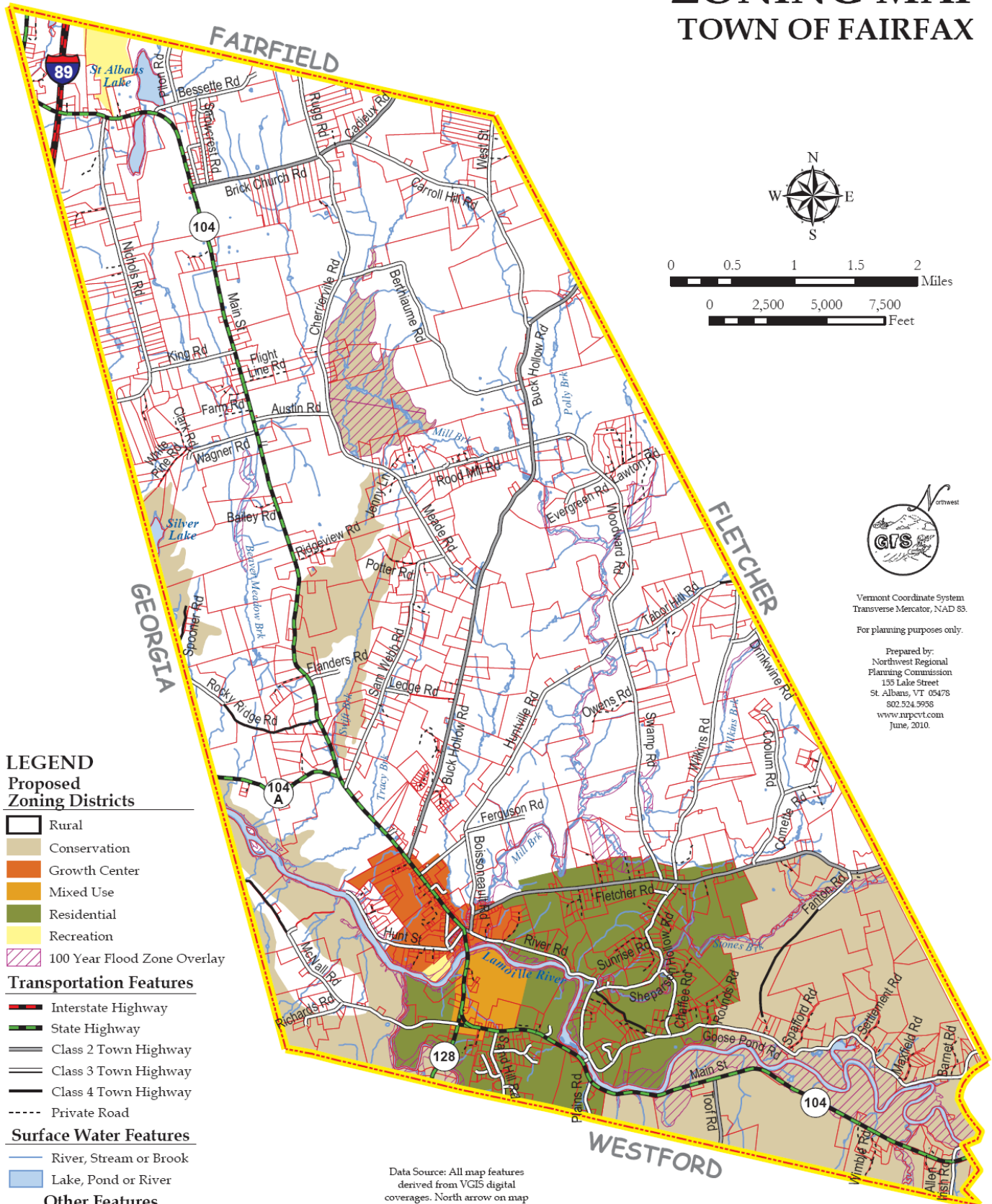
- River, Stream or Brook
- Lake, Pond or River

Other Features

- Parcel Line
- Town Boundary

Data Source: All map features
derived from VGIS digital
coverages. North arrow on map
refers to Grid North.

Location: z:/gis/projects/county/franklin/
fairfax/zoning2009/proposedzoningletter.mxd



Article 1. Authority and Purpose

SECTION 1.1 ENACTMENT

These Town of Fairfax Development Regulations are established pursuant to the Vermont Planning & Development Act, 24 VSA, Chapter 117 (hereinafter referred to as “the Act”).

SECTION 1.2 AMENDMENT AND EFFECTIVE DATE

These Regulations shall take effect and may be amended according to the procedures and requirements specified in the Act, Section 4441 and 4442. On the date these Development Regulations become effective, they shall replace in their entirety the Zoning Bylaws and Subdivision Regulations.

SECTION 1.3 GENERAL PURPOSE

The purpose of the Fairfax Development Regulations is to implement the Fairfax Town Plan and to further the purposes of the Act, Section 4302; specifically, to promote the public health, safety, comfort, convenience, economy and general welfare of the community.

SECTION 1.4 APPLICABILITY

No land development, as defined in 24 V.S.A. Chapter 117, Section 4303 (10) of the Act, including the division of a parcel into two or more parcels; new construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, earth resource extraction, and change in the use of any building or other structure, or land or extension of use of land shall commence except in compliance with the Fairfax Development Regulations.

SECTION 1.5 STATUTORY EXEMPTIONS

The following uses and structures are specifically exempted from municipal land use and development regulations by Vermont State law. In accordance with the Act [§4413], no municipal Zoning Permit or approval under these Regulations shall be required for:

- 1) Accepted agricultural and best management practices (AAPs, BMPs) as adopted in rules by the Agency of Agriculture (see www.vermontagriculture.com), including farm structures, as defined by the Secretary of Agriculture, Food and Markets in accordance with the Act (Title 6 §4810). However, written notification, including a sketch plan of the farm structure showing setback distances from road rights-of-way, property lines, and surface waters shall be made to the Zoning Administrator prior to any construction as required under the AAPs. Agricultural practices that are governed by the AAPs include, but are not limited to the following:

- a) The confinement, feeding, fencing, and watering of livestock.
 - b) The handling of livestock wastes and by-products.
 - c) The collection of maple sap and production of maple syrup.
 - d) The preparation, tilling, fertilization, planting, protection, irrigation and harvesting of crops.
 - e) The ditching and subsurface drainage of farm fields and the construction of farm ponds.
 - f) The stabilization of farm field stream banks constructed in accordance with the United States Department of Agriculture Natural Resources Conservation Service standards and specifications or other standards approved by the Commissioner.
- 2) Accepted management practices (AMPs) for silviculture (forestry) as defined by the Commissioner of Forests, Parks, and Recreation, pursuant to the Act.
- 3) Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Service Board [under 30 V.S.A. §248], including net-metered wind generation facilities and solar panels.
- 4) Hunting, fishing or trapping on public or private land as specified by the state [under 24 V.S.A. §2295]. This excludes facilities that may support such activities, such as firing ranges, rod and gun clubs, and fish and game clubs, which are subject to these Regulations.

SECTION 1.6 INTERPRETATION

In their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements which shall take precedence over any concurrent and less restrictive applicable statutes, ordinances, rules, regulations or permit requirements.

Except where defined in the provisions of these Regulations or the Act, all words herein shall carry their customary meanings. Where doubt exists as to the precise meaning of any word(s), the DRB shall rule on the interpretation. The DRB shall publish (and update from time to time) definitions and rulings of interpretation, to ensure consistent and uniform application of these Regulations.

SECTION 1.7 SEVERABILITY

The invalidity of any article or section of these Regulations shall not invalidate any other article or section thereof.

Article 2. Zoning Permits

SECTION 2.1 ZONING PERMIT

A) Applicability. A Zoning Permit is required prior to initiating the following land development activities, unless specifically exempted in [Section 2.2](#) below (see also statutory exemptions in [Section 1.5](#)):

- Erecting a new structure or replacing a structure with greater than 100.0 square feet of floor space or footprint area
- Erecting a new allowed sign (see [Section 5.8](#) for exempted signs)
- Moving a structure with greater than 100.0 square feet of floor space or footprint area
- Adding more than 100.0 square feet of new floor space or footprint area to an existing structure
- Changing the size, shape, location, or illumination of an existing allowed sign
- Initiating a new allowed use (See [Section 2.2](#))
- Changing from one type of use to a different allowed use
- Moving an allowed use to another lot

Subdivisions require approval from the DRB according to Article 4 and do not require a Zoning Permit.

For all land development involving pre-existing nonconformities, please refer to Section 5.3 for specific requirements.

B) Application Requirements. A complete application for a Zoning Permit shall include all the applicable information requested on the Town of Fairfax Zoning Permit Application, including the application fee. Zoning Permit fees shall be in accordance with the current Fairfax Fee Schedule.

C) Public Notice and Issuance Requirements. Public notice and issuance requirements must be met before a Zoning Permit may be issued according to [Section 8.3](#).

D) Zoning Permit Requirements.

1) Does the proposal require DRB review? If one or more approvals from the DRB are required, such approval shall be obtained before applying for a Zoning Permit. DRB approval is required for conditional uses ([Section 3.1](#)), uses requiring Site Plan Review ([Section 3.2](#)), and requests for variances ([Section 3.3](#)). Projects involving access by right-of-way ([Section 2.3\(C\)](#)) and PUDs ([Section 3.4](#)) also require DRB approval. Nonconformities shall comply with [Section 5.3](#) and may require DRB approval.

2) Does the proposal meet the zoning district use and dimensional standards? Before

issuing a Zoning Permit, the Zoning Administrator shall confirm that the use proposed is a permitted use according to [Table 2.2](#) or has received Conditional Use Approval from the DRB. In addition, the Zoning Administrator shall confirm that the proposal conforms to the dimensional requirements, including setbacks, as listed in [Table 2.3](#).

- 3) Does the proposal meet the standards in Article 5, Article 6, and Article 7?** Before issuing a Zoning Permit, the Zoning Administrator shall confirm that the proposal conforms to the decision and conditions imposed in the DRB approval (if one exists) and meets the standards in [Article 5](#), [Article 6](#), and [Article 7](#), as applicable.
- 4) Has the proposal obtained all other required local permits or approvals?** Before issuing a Zoning Permit, the Zoning Administrator shall confirm that the proposal has obtained all required local permits and approvals, such as wastewater or water supply allocations, approval for a curb cut on a town highway, conformance with municipal road ordinances, flood hazard ordinances, Subdivision Approval, and any other required permits or approvals.

E) Expiration of Permits, Abandonment and Inactivated Uses.

- 1) Zoning Permit Expiration.** Zoning Permits shall be effective for a period of two (2) years. Active construction of the permitted land development must be completed within this two (2) year effective period. If requested in writing, prior to the expiration of the existing permit, a single, one-year extension may be granted if active construction has continued for, but has not been completed within, the initial two (2) year period. If a Zoning Permit expires, a new Zoning Permit must be obtained at the current cost of a Renewal Permit on the most recently adopted Town of Fairfax Fee Schedule.
- 2) Abandoned Construction Projects.** If active work on a partially completed construction project has not occurred within two (2) years of the date the permit was issued, the owner shall either: remove the structure and structural materials and restore the site to a smooth grade; or resume construction of, or repair to, the structure and obtain any permits necessary to do so.
- 3) Abandoned Uses.** A new Zoning Permit, in addition to any required DRB approvals, shall be obtained before resuming any use that has been abandoned for more than two (2) years if it was not approved under the most recently amended Development Regulations.
- 4) Inactivated Uses.** A new Zoning Permit, in addition to any required DRB approvals, shall be obtained before resuming any use that fails to be implemented within four (4) years of being permitted/approved if it was not approved under the most recently amended Development Regulations.

- F) Certificate of Occupancy.** A Certificate of Occupancy issued by the Zoning Administrator is required for all new principal structures and accessory dwelling units that have been issued a Zoning Permit before such structures may be occupied for their intended use. A Certificate of Occupancy certifies that the structure and use conforms to the Zoning Permit and the provisions of these Regulations, has obtained a Wastewater and Potable Water Supply Permit from the State of Vermont if required (see [Section 5.11](#)), has a 911 address number displayed to be visible from the road (public or private), and complies with any other relevant Town ordinances or regulations. If the Zoning Administrator fails to grant or

deny a Certificate of Occupancy for use within seven working days after receiving an application, the Certificate of Occupancy may be deemed issued.

SECTION 2.2 ALLOWED, PROHIBITED, EXEMPTED, AND NOT LISTED USES; OTHER EXEMPTIONS

- A) Uses.** Land uses are either listed in [Table 2.2](#) by Zoning District as allowed, exempted, or prohibited, or are not listed.
- 1) **Allowed Uses.** Allowed land uses may be either permitted (P), permitted with Site Plan Approval (P/S), conditional (C), or conditional with Site Plan Approval (C/S). All allowed uses require a Zoning Permit issued by the Zoning Administrator.
 - a) **Permitted Uses.** Permitted uses (P) require a Zoning Permit from the Zoning Administrator only. No approval from the DRB is required.
 - b) **Uses Requiring DRB Approval.** Uses that require Conditional Use Approval or Site Plan Approval (noted with P/S, C, or C/S in [Table 2.2](#)) require such approval(s) from the DRB before the Zoning Administrator can issue a Zoning Permit. For uses requiring multiple approvals, DRB review may be coordinated in accordance with [Section 8.4\(B\)](#).
 - 2) **Exempt Uses.** Uses marked with an (E) in [Table 2.2](#) are exempt and do not require a Zoning Permit. See also the exemptions listed in Subsection (C) below and the statutory exemptions in [Section 1.5](#).
 - 3) **Prohibited Uses.** Uses marked with an (X) under a certain Zoning District in [Table 2.2](#) are specifically prohibited in that District.
 - 4) **Uses Not Listed in Table 2.2.** Applicants may apply for Conditional Use Approval from the DRB for uses **not listed** in [Table 2.2](#). The DRB shall consider whether the proposed use is of the same general character as those allowed in the district in which the use is proposed.
- B) Temporary Uses and Structures for Construction Projects.** Temporary permits may be issued by the Zoning Administrator for non-conforming uses and structures incidental to construction projects, provided that the property owner shall remove the temporary structure or use upon the expiration of the Zoning Permit authorizing construction (per [Section 2.1\(E\)](#)).

Table 2.2 Land Uses P (Permitted Use), C (Conditional Use), P/S (Permitted Use with Site Plan Approval), C/S (Conditional Use with Site Plan Approval), X (Prohibited), E (Exempt, No Zoning Permit Required)						
	Growth Center	Mixed Use	Residential	Rural	Conservation	Recreation
Principal Residential Uses						
Dwelling, Single-Household	P	P	P	P	P	X
Dwelling, Two-Household	P	P	P	P	P	X

Table 2.2 Land Uses P (Permitted Use), C (Conditional Use), P/S (Permitted Use with Site Plan Approval), C/S (Conditional Use with Site Plan Approval), X (Prohibited), E (Exempt, No Zoning Permit Required)						
	Growth Center	Mixed Use	Residential	Rural	Conservation	Recreation
Dwelling, Multi-Household	P/S	P/S	C/S	C/S	X	X
Dwelling, Seasonal	P	P	P	P	P	X
Mobile Home Park	X	X	PUD①	PUD①	X	X
Accessory Residential Uses						
Bed and Breakfast	P	P	P	P	P	X
Casual Sales (Garage Sale)	E	E	E	E	E	X
Childcare Home (6 or less children)	E	E	E	E	E	X
Childcare Home (7-10 children)	P	P	P	P	P	X
Dwelling, Accessory (Section 6.1)	P	P	P	P	P	X
Home Business (Section 6.5(A))	E	E	E	E	E	X
Home Industry (Section 6.5(C))	C/S	C/S	C/S	C/S	C/S	X
Home Occupation (Section 6.5(B))	P	P	P	P	P	X
Rooming and Boarding House	C/S	C/S	C/S	C/S	C/S	X
Structure, Residential Accessory	P	P	P	P	P	X
Major Commercial Uses						
Retail Sales	C/S	C/S	C/S	C/S	C/S	X
Personal or Professional Service	P/S	P/S	C/S	C/S	X	X
Lodging Establishment	C/S	C/S	C/S	C/S	X	X
Restaurant or Drinking Establishment	C/S	C/S	C/S	C/S	C/S	C/S
Industry, Light	X	C/S	C/S	C/S	X	X
Specific Commercial Uses (If a use meets the definition of both a major commercial use and a specific commercial use, the specific commercial use shall govern)						
Adaptive Reuse of Historic Structure (Section 6.2)	C	C	C	C	C	C
Agribusiness	X	C/S	C/S	C/S	C/S	X
Campground	X	X	C/S	C/S	C/S	X

Table 2.2 Land Uses P (Permitted Use), C (Conditional Use), P/S (Permitted Use with Site Plan Approval), C/S (Conditional Use with Site Plan Approval), X (Prohibited), E (Exempt, No Zoning Permit Required)						
	Growth Center	Mixed Use	Residential	Rural	Conservation	Recreation
Daycare Center (In home more than 10 children or separate non-residential facility)	P/S	P/S	C/S	C/S	C/S	X
Earth Resource Extraction (Section 6.4)	X	X	X	C/S	X	X
Farm Market	P/S	P/S	C/S	C/S	C/S	X
Farm Stand	E	E	E	E	E	E
Gas/Service Station (Section 6.3)	C/S	C/S	X	C/S	X	X
Kennels, Animal Shelter, Animal Boarding, Veterinary Office	X	C/S	C/S	C/S	C/S	X
Mixed Use (Section 6.7)	C/S	C/S	X	X	X	X
Motor Vehicle Repair, Small	C/S	C/S	C/S	C/S	X	X
Motor Vehicle Repair and/or Service (Section 6.3)	X	C/S	C/S	C/S	X	X
Motor Vehicle Sales (Section 6.3)	C/S	C/S	C/S	C/S	X	X
Recreation, Indoor	C/S	C/S	C/S	C/S	C/S	X
Recreation, Outdoor	C/S	C/S	C/S	C/S	C/S	C/S
Storage Facilities	X	C/S	C/S	C/S	C/S	X
Other Uses						
Accessory Structure	P	P	P	P	P	C
Structural Alteration	P	P	P	P	P	C
Accessory Use (Non Residential)	P	P	P	P	P	C
Clubs	C/S	C/S	C/S	C/S	C/S	X
Community Care Facility	C/S	C/S	C/S	C/S	X	X
Community Center	P/S	P/S	C/S	C/S	C/S	X
Concession, Seasonal Nonprofit	E	E	E	E	E	E
Places of Worship	P/S	P/S	P/S	P/S	P/S	X
Public Facility (Section 6.6)	C/S	C/S	C/S	C/S	C/S	C/S
Recreation, Public	P/S	P/S	P/S	P/S	P/S	P/S

Table 2.2 Land Uses P (Permitted Use), C (Conditional Use), P/S (Permitted Use with Site Plan Approval), C/S (Conditional Use with Site Plan Approval), X (Prohibited), E (Exempt, No Zoning Permit Required)						
	Growth Center	Mixed Use	Residential	Rural	Conservation	Recreation
Recreation, Private Home	E	E	E	E	E	E
Residential Care Home or Group Home	P	P	P	P	P	X
Small Off-Grid Wind Energy Systems (Section 6.8)	P	P	P	P	P	P
Wireless Telecommunication Facility (Section 6.9)	C	C	C	C	C	C
Notes: (a) Changing a use to another use that does not involve altering an existing, permitted site design does not require Site Plan Approval, even though it may be noted so above (See Section 3.2). (b) Uses not listed in this Table may be approved by the DRB according to Section 2.2(A)(4) . ① New Mobile Home Parks shall be reviewed as a PUD.						

C) Development That Does Not Require a Zoning Permit. The following land development activities do not require a Zoning Permit. See also the exempted uses listed in [Table 2.2](#) and the statutory exemptions in [Section 1.5](#). Some standards, such as setbacks, may apply as specified below.

- 1) Structural Alteration to existing residential or accessory structures involving 100 square feet or less of new or repurposed floor space or footprint area provided there is compliance with the setback requirements in [Table 2.3](#) and that the structure and use is conforming. All improvements to nonconformities shall comply with [Section 5.3](#) and will require a Zoning Permit.
- 2) Maintenance or repair to existing structures.
- 3) New stand-alone accessory structures involving 100.0 square feet or less of floor space or footprint area, such as a tool shed, provided they comply with the setback requirements in [Table 2.3](#).
 - a) Exceptions:
 - i) In the Growth Center, stand-alone accessory structures involving 100.0 square feet shall maintain a 5 foot side yard setback, and do not need to comply with the rear yard setback.
 - ii) Bus stop shelters for schoolchildren and trash enclosures may be located in the front setback, but shall be located out of the road right-of-way.
- 4) Handicap accessibility improvements, such as ramps and elevators.
- 5) Above ground pools.
- 6) In ground pools smaller than 100.0 square feet.
- 7) Fences (Note: fences may be required in conjunction with land development that

requires Development Review Board approval under these Regulations.)

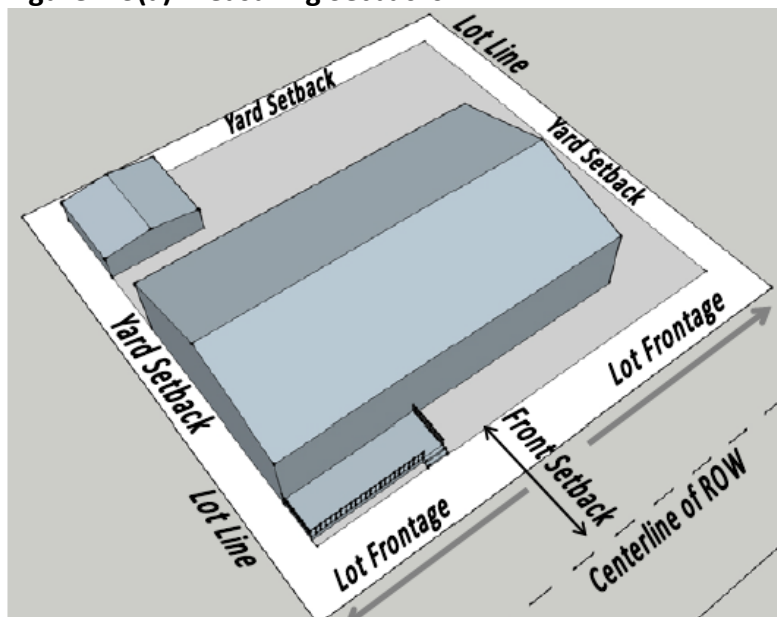
- 8) Exempt Signs ([Section 5.8.](#))
- 9) Landscaping (Note: landscaping may be required in conjunction with land development that requires Development Review Board approval under these Regulations.)
- 10) Other non-permanent structures. A non-permanent structure is a structure that is not built on a durable in-ground foundation, footing, or slab, provided that the structure complies with the setback requirements in [Table 2.3.](#)

SECTION 2.3 DIMENSIONAL STANDARDS FOR STRUCTURES AND LOTS

- A) Whether or not a Permit is required, all structures and lots must meet the dimensional standards listed in [Table 2.3](#), except when otherwise approved by the DRB as a variance or a PUD, or as noted in [Section 2.2\(C\)\(3\).](#)

Table 2.3 Dimensional Standards for Structures and Lots						
	Growth Center	Mixed Use	Residential	Rural	Conservation	Recreation
Minimum Lot Area	½ acre	½ acre	1½ acres	2 acres	5 acres	2 acres
Maximum Residential Density①	NA	NA	1 unit/1 ½ acres	1 unit/2 acres	1 unit/5 acres	NA
Setback, Front ②	40 feet	40 feet	60 feet	60 feet	60 feet	60 feet
Setback, Yard	10 feet	10 feet	25 feet	25 feet	25 feet	25 feet
Setback, Named Stream	50 feet (See Section 5.10)					
Maximum Structure Height	35 feet (See Section 5.3)					
Road Frontage/Access to Lots	Lots shall either have road frontage or have approved access via ROW in accordance with Section 2.3(C) .					
<i>Note: Some setbacks apply to uses that do not require a Zoning Permit (see Section 2.2(C)).</i>						
① Maximum residential density refers to the number of dwelling units allowed per acre of land.						
② Front setbacks are measured from the center of the right-of way.						

Figure 2.3(a) Measuring Setbacks



Text Box 2.3

Front Setback: Along a parcel's lot frontage, the nearest distance allowed between a structure and the centerline of a public or private road. The minimum front setback requirement shall apply to both frontages on a corner lot.

Yard Setback: The nearest distance allowed between a structure and the side or rear lot line.

Lot Frontage: A boundary of a parcel on a public or private road.

B) Principal Uses per Lot.

There shall only be one principal use per lot, unless the lot is approved as a PUD or Mixed Use according to [Section 3.4](#) or [6.7](#).

Principal Use: A use directly involved with the primary purpose of ownership on a particular lot. Each residential use listed in Table 2.2 (single household dwelling, two-household dwelling, multi-household dwelling, etc) is considered one principal use regardless of the number of

C) Frontage. No land development may be permitted on lots without either:

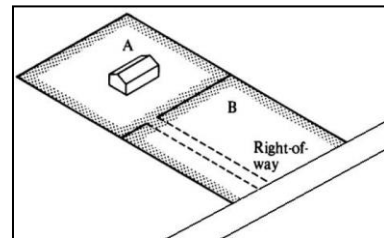
1) **Frontage** on:

- a) Class I, II III, or IV public road
- b) Town approved private road
- c) Public waters

2) **Access by right-of-way** approved by the DRB. Access by right-of-way requires DRB approval. DRB approval shall happen concurrently with any other DRB approvals required. If no other DRB approvals are required, such approval shall require Site Plan Review.

- a) Access by right-of-way shall be at least thirty (30) feet in width to serve up to two lots, units or principal uses (a driveway) and at least fifty (50) feet to serve three or more lots, units or principal uses (a road).
- b) Access by right-of-way shall comply with the road and driveway standards (as applicable) in [Section 7.6](#).
- c) The DRB shall consider the intended use of the property, safety, traffic, and road and site conditions in granting, conditioning, or denying approval.

Figure 2.3(b)
This is an example of an access by right-of-way to a lot without frontage



SECTION 2.4 ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP

A) Zoning Districts. The Town of Fairfax is hereby divided into the following zoning districts:

- **Growth Center.** The Growth Center encompasses the traditional village center in Fairfax consisting of a mixture of residential, multi-household, and commercial land uses on smaller building areas than are allowed in other parts of town. The Growth Center is designed to accept the majority of future growth, which shall be designed and sited to further the traditional characteristics of village centers. Such characteristics include pedestrian friendly streets, sidewalks and walkways, neighborhood living, an integrated street network, shops, government services, schools, parks, and playgrounds.
- **Mixed Use District.** The Mixed Use District is an area intended for mixed use development near the junction of VT Rte. 128 and VT Rte. 104. This district is not intended for an intensity of uses comparable to the Growth Center and does not have municipal water and sewer. The Mixed Use District is intended to maintain the small-

scale commercial, residential, and recreational uses currently in existence, while complementing and providing connection to the Village. Pedestrian accessibility is required in future development applications to promote walkable, village scale development.

- **Residential District.** The Residential District is intended for future residential development beyond what is accommodated by the Growth Center and Mixed Use District. Agriculture and significant forestland does not dominate in this district and soils are generally suitable for on-site septic systems. Clustering of building lots and PUDs are encouraged in these areas in order to preserve open land, forestland, and rural character.
- **Rural District.** The Rural District is intended to primarily consist of viable agricultural and forest land within the Town. Most importantly, the landscape of rural open countryside and forestland shall be maintained. This district can accommodate some low-density residential development if clustered or sited to conserve productive agricultural and forestry soils, meadowland, and to maintain rural character.
- **Conservation District.** The Conservation District includes areas generally not physically suited for development, or which should be protected for their inherent value as significant wildlife habitat and forestland. These areas include deer wintering areas; bear habitat; locations of rare, threatened, or endangered species or significant natural communities; or the existence of development constraints such as steep slopes and poor development soils. Development and subdivision should be very limited in the Conservation District. Clustered development is required to avoid areas unsuitable for development and to conserve productive agricultural and forest soils, wildlife habitat, and to maintain rural character.
- **Recreation District.** The Recreation District consists of those areas owned by the Town, which have been set aside for future development as sites for public recreation. Construction should be limited to necessary public facilities associated with recreation activities. Otherwise, the Recreation District will essentially remain in its present condition as forested areas and open land for public recreation.
- **Flood Hazard Overlay District.** The purpose of this overlay district is to prevent increases in flooding caused by development in flood hazard areas, to minimize future public and private losses due to flood, and to promote the public health, safety, and general welfare. Designation of this area is also required for continued participation in the National Flood Insurance Program (NFIP) and is regulated under the Town's Flood Hazard Area Regulation Ordinance. Included are all areas in Fairfax identified as areas of special flood hazard on the National Flood Insurance maps. Land development in the Flood Hazard Overlay District is subject to the Fairfax Flood Hazard Area Regulation Ordinance.

B) Official Zoning Map. The Official Zoning Map shall consist of the Town of Fairfax Zoning Map. It shall be identified by the signatures of the Select Board, attested by the Town Clerk. No changes of any nature shall be made to it except in conformance with the formal amendment procedures and requirements set forth in the Act, Sections 4441 and 4442. Regardless of the existence of copies, which may be made or published from time to time, the Official Zoning Map located in the Town Clerk's Office shall be the final authority as to the zoning status of all land and water areas in the Town of Fairfax. A

copy of the Zoning District Map is included at the beginning of these Regulations ([Map 1.1](#)).

- C) Interpretation of Zoning District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
- 1) Boundaries indicated as approximately following the centerlines of roads, streams, transportation and utility rights-of-way shall be construed to follow such centerlines. The abandonment of roads and/or rights-of-way shall not affect the location of boundaries.
 - 2) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
 - 3) Boundaries indicated as following shorelines shall be construed as the normal mean water level.
 - 4) Boundaries indicated as parallel to, or as extensions of features in (1), (2), and (3) above shall be so construed.
 - 5) When the Zoning Administrator cannot definitely determine the location of a district boundary line by the above rules or by the scale or dimensions on the Official Zoning Map, the DRB shall interpret the district boundaries.

Article 3. Special Approvals

SECTION 3.1 CONDITIONAL USE APPROVAL

- A) Applicability.** Approval from the DRB is required for all land development requiring Conditional Use Approval before applying to the Zoning Administrator for a Zoning Permit. The following uses require Conditional Use Approval:
- 1) Initiating a new use that is listed in [Table 2.2](#) as conditional (C) or conditional with Site Plan Approval (C/S), or is not listed in [Table 2.2](#).
 - 2) Changing an existing use to a different use that is listed as conditional (C) or conditional with Site Plan Approval (C/S) in [Table 2.2](#) or to a use that is not listed in [Table 2.2](#).
 - 3) Expanding or modifying an existing conditional use so that it no longer conforms to its existing Conditional Use Approval.
 - 4) Nonconformities (in some cases, see [Section 5.3](#)).
 - 5) **Abandoned Conditional Use:** A [Conditional Use](#) that has been abandoned for more than two years shall require approval from the Development Review Board before it can be resumed, if it was not approved under the most recently amended Development Regulations. Re-approval may also require obtaining a new Zoning Permit.
 - 6) **Inactivated Conditional Use:** A [Conditional Use](#) that fails to be implemented within four (4) years of approval shall require approval from the Development Review Board before it can be resumed, if it was not approved under the most recently amended Development Regulations. Re-approval may also require obtaining a new Zoning Permit.
- B) Application Requirements.** A complete application for Conditional Use Approval shall include all the information requested on the Fairfax DRB Project Application Form, including a written description of how the proposal meets the review standards in [Section 3.1\(D\)](#), and the application fee.
- C) Public Notice and Issuance Requirements.** The DRB must hold a public hearing before making a determination as to whether the proposed use conforms to the general and specific standards for conditional uses in these Regulations. Public notice, public hearing, and decision requirements in [Sections 8.3](#), [8.4](#), and [8.5](#) apply.
- D) Review Standards.** In approving an application for Conditional Use Approval, the DRB shall determine that the proposed use or structure conforms to the following standards:
- 1) The proposed use shall not result in an undue adverse effect on the capacity of existing or planned public or community-owned facilities or services.
 - 2) The proposed use will not result in an undue adverse effect on the character of the area affected as defined in the purpose statement for each zoning district ([Section 2.4](#)).
 - 3) Nuisance or hazard will not be created to the detriment of the health, safety, or welfare

of the occupants of the proposed use or the citizens of the Town.

- 4) The proposed use will not result in an undue adverse effect on the utilization of renewable energy resources.
- 5) The proposed use will not prevent the reasonable use or development of adjacent property.
- 6) The traffic generated, or patterns of access and egress, will not have an undue adverse effect on roads or highways in the vicinity, and will not cause congestion or traffic hazard that changes the established neighborhood or character of the district, as defined by the district's purpose described in Section 2.4
- 7) The applicable General and Specific Use Standards in [Article 5](#), [6](#), or [7](#).
- 8) The use as designated and planned will be of a scale appropriate for a rural community and will fit within the character of the existing structures and uses in the district and with the Purpose of the district as stated in these Regulations.
- 9) The siting of buildings on parcels should minimize the appearance of strip development along roads. This can be accomplished by grouping buildings together, sharing access points, construction of through roads, and other design options.

E) Conditions. The DRB may place conditions on a project in order to insure that the standards of these Regulations will be met, including, but not limited to, the following conditions:

- 1) The DRB may limit the scale or dimensions of the proposal.
- 2) The DRB may increase setback distances for non-residential uses which are contiguous to residential uses, recreation uses, or natural areas.
- 3) The DRB may limit the hours of operation.
- 4) The DRB may limit outdoor storage of materials, goods, and equipment.
- 5) The DRB may require that storage of goods, parts, supplies, vehicles or machinery being worked on or finished or partially finished will be inside a building or behind screening.
- 6) The DRB may attach conditions with regard to size and location of parking areas, landscaping, and signs.
- 7) The DRB may require roadway improvements on-site or off-site, if deemed necessary, to accommodate the increased traffic associated with the development. Improvements may also include traffic calming, sidewalks, crosswalks and other similar improvements.
- 8) The DRB may require other improvements necessary to ensure compliance with these Regulations.

SECTION 3.2 SITE PLAN APPROVAL

A) Applicability. All uses listed in [Table 2.2](#) noted as P/S or C/S, in addition to proposed uses not listed in [Table 2.2](#) that are found to be of the same general character as those noted as P/S or C/S in the district in which the use is proposed, require Site Plan Approval from the DRB before applying to the Zoning Administrator for a Zoning Permit. Home occupations, accessory uses, and single and two-household dwellings are examples of uses that **do not** require Site Plan Approval. Change of use applications that do not propose or require an alteration to an existing, permitted site design do not require Site Plan Review.

B) Application Requirements. A complete application for Site Plan Approval shall include all the information requested on the DRB Project Application Form, including the application fee and two copies of a site plan, which shall be prepared in a clear and legible manner, drawn to scale on an 18 inch by 24 inch sheet of paper (two copies required), as well as six reduced size copies of 11 inch by 17 inches in size. The Site Plan shall include all of the following information:

- 1) Name and address of the owner of record and adjoining land ownership. Name and address of person or firm preparing the site plan map. Site location map, scale of map, north arrow, and date.
- 2) Features of the existing site including contours, vegetation and natural features, structures, access points, easements, and property and zoning boundaries, existing structures and access points to adjacent properties.
- 3) Proposed improvements, including structures, parking areas, access points, sidewalks and other walkways, loading docks, outside storage areas, sewage disposal areas, landscaping, screening and site grading. Building information, including elevations and floor plans may also be required.
- 4) Detailed specifications of the planting and landscaping materials to be used.
- 5) Construction sequence and timing schedule for completion of each phase for buildings, parking spaces, landscaped areas and other site improvements.
- 6) Estimates of daily and peak hour traffic generation.
- 7) Any other information or data that the DRB may reasonably require.

C) Public Notice and Issuance Requirements. The DRB must hold a public hearing before making a determination as to whether the proposed use conforms to the general and specific standards for Site Plan Approval in these Regulations. Public notice, public hearing, and decision requirements in [Sections 8.3, 8.4, and 8.5](#) apply.

D) Review Standards. In reviewing site plans, the DRB may impose appropriate conditions and

safeguards with respect to the adequacy of pedestrian and vehicular access, circulation and parking; landscaping and screening; exterior lighting; the utilization of renewable energy resources; the size, location and design of signs; municipal services, and other factors. In approving a site plan, the DRB shall take into consideration the following standards, which reference the provisions of [Article 5](#) (General Regulations) and [Article 7](#) (Planning and Design Standards):

- 1) Maximum safety of vehicular and pedestrian circulation** between the site and the street network; particular attention shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency. [[Section 7.5](#) and [7.6](#)]
 - 2) Adequacy of circulation, parking, and loading facilities.** Particular consideration shall be given to the effect of noise, glare or odors on adjoining properties and state and town highways. Adequacy of provisions for erosion control, runoff, refuse removal, service areas, and snow removal shall be considered. [[Section 5.4](#), [Section 5.5](#), [Section 5.9](#), [Section 7.3](#), [Section 7.7](#), [Section 7.8](#)]
 - 3) Adequacy of landscaping and screening.** Particular consideration shall be given to preservation of existing vegetation and important features of the site, including trees and tree lines, views and vistas, fences, stone walls, and shrubs; visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and erosion control, and light on the site. [[Section 7.3](#)]
 - 4) Compatibility.** The DRB shall impose necessary conditions to ensure that the proposed use does not have an undue adverse effect on the character of the area as defined by the purpose statement for each Zoning District in [Section 2.4](#), and that it does not adversely impact the capacity of existing or planned community facilities.
- E) Decision:** The DRB shall issue a written decision within 45 days of the final hearing. If the Site Plan is approved the applicant shall be responsible for recording the decision in the Fairfax Land Records, adding the recording information to the Site Plan, and then presenting the Site Plan, in Mylar form, to the DRB for its approval, before recording the Site Plan Mylar in the Fairfax Land Records.
- F) Revisions:** The Zoning Administrator is authorized to allow changes to previously approved Site Plans only with the consent of the Development Review Board, and changes to the previously recorded Site Plan Mylar may or may not be required at the discretion of the Development Review Board. Any changes to previously approved Site Plans in the Growth Center or Mixed Use Districts shall require the applicant to apply for re-approval by the DRB.

SECTION 3.3 VARIANCES

- A) Applicability.** Requests for variances from the provisions of these Regulations may be

submitted for structures (but not for uses) and shall be regulated as prescribed in Section 4469 of the Act. A variance to allow a use that is prohibited according to [Table 2.2](#) or to modify any of the general or specific standards shall not be considered.

- B) Application Requirements.** A complete application for a variance shall include all the information requested on the Fairfax DRB Project Application Form, including the application fee. The application shall also include a written description of how the proposal meets the requirements of [Section 3.3\(D\)](#) below.
- C) Public Notice and Issuance Requirements.** The DRB must hold a public hearing before making a determination as to whether the proposed use meets all five variance criteria listed below. Public notice, public hearing, and decision requirements in [Sections 8.3, 8.4,](#) and [8.5](#) apply.
- D) Review Standards.** The DRB may grant a variance and render a decision in favor of the applicant only if all the five (5) facts listed below are found, and the findings are specified in its written decision.
- That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located.
 - That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - That the unnecessary hardship has not been created by the applicant.
 - That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.
 - That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from zoning regulation and from the plan.
- 1) In making a decision in favor of the applicant for a variance, the DRB may attach conditions which are necessary to comply with the Act and/or the Town Plan.
 - 2) On a request for a variance for a structure which is primarily a renewable energy resource structure, the DRB may grant the variance only if it finds that all of the facts listed in 24 V.S.A 4469(b) are found in the affirmative.

SECTION 3.4 PLANNED UNIT DEVELOPMENT

Text Box 3.4

A Planned Unit Development (PUD)

is a flexible, efficient, and innovative development design of one or more lots or parcels as a single project to achieve a variety of objectives (see Section 3.4 [(A)]). PUDs are most commonly designed to shift the permitted density from one portion of a property to a smaller area to enable more efficient and concentrated development on a single parcel of land.

A) Purpose. In accordance with Section 4417 of the Act, Planned Unit Developments (PUDs) are permitted in order to achieve two (2) primary goals:

- 1) to cluster development and preserve open space in the Rural District, Conservation District, and Residential District and
- 2) to promote compact, pedestrian oriented development in the Growth Center District and Mixed Use District.

In addition, PUDs are intended to make more efficient uses of land and energy resources; facilitate the adequate and economic provision of streets and utilities; preserve the agricultural, forested, natural and scenic qualities of the Town; and encourage the preservation of historic structures.

B) Applicability. The Zoning Administrator shall evaluate all proposals for PUDs to determine whether the project qualifies to be considered as a PUD as outlined below.

1) To qualify as a PUD, a project shall:

- a) Contain at least 4.0 contiguous acres (in all Districts except the Growth Center and Mixed Use).
- b) Further one of the two primary goals of PUDs identified in [Section 3.4 \(A\)](#) above.

2) PUDs may:

- a) Involve the creation of separate building lots or may include a development in which multiple principal structures and uses are constructed on an existing parcel or parcels.
- b) Involve one parcel or multiple adjacent parcels as a single PUD project.

C) Review Procedure. An application for PUD approval shall be reviewed in accordance with the standards of Article 4 of these Regulations. For PUDs that include one or more uses requiring Conditional Use Approval or Site Plan Approval, these approvals shall also be required for the specific uses. These approvals shall be coordinated with PUD review to the extent practical.

D) Application Requirements. In addition to application requirements for subdivision or Site Plan Approval (as applicable), applications for PUDs must include the following:

- 1) A brief summary of the project that explains how it meets the goals and purposes of a PUD as identified in [3.4\(A\)](#) above.
- 2) Any request for flexibility in the application of the dimensional standards in Table 2.3 of these Regulations and any request for a density bonus according to [Section 3.4\(G\)](#) below.

E) General Standards.

- 1) **Dimensional Standards.** To further the goals of PUDs, applicants may request reduced minimum lot area and setback distances from those prescribed in [Table 2.3](#) of these Regulations. The DRB shall set minimum lot area and setback distances appropriate to the project in the written decision. The DRB shall take into consideration the purpose of the Zoning District, the goals of PUDs, compatibility of adjacent uses, traffic, and other conditional use and site plan standards in setting minimum lot area and setback distances.
- 2) **Density.** For subdivisions, undevelopable land area as defined in [Section 4.5](#) does not need to be subtracted when calculating the number of lots that may be subdivided. Density shall otherwise be calculated according to [Section 2.3](#) and this Article. The project may qualify for a density bonus according to [Section 3.4 \(G\)](#) below.

Figure 3.4(a) Planned Unit Developments (PUDs)

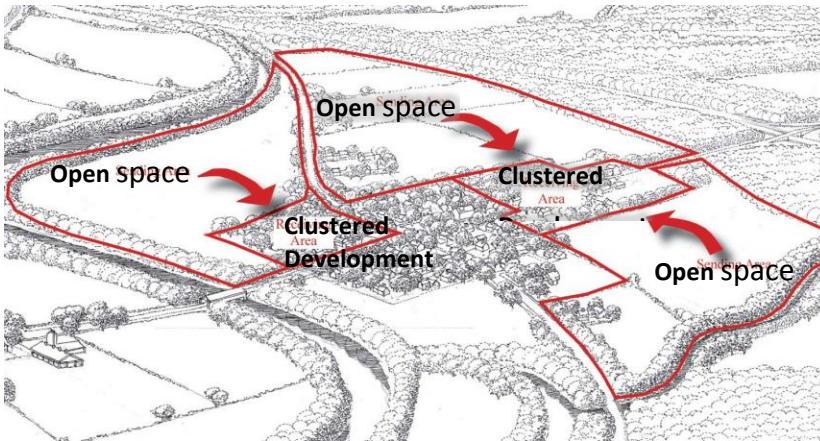


Figure 3.4(a) shows an example of a typical PUD where the minimum lot size is reduced to cluster uses on a smaller amount of land, allowing for the preservation of open space.

- 3) **Perimeter Setback.** The minimum setback requirements for the District in which the project is located shall apply to the perimeter of the project under review.
- 4) **Allowed Uses.** The uses allowed in a PUD shall be governed by the standards of [Section 2.2](#).
- 5) **Mixed Uses.** PUDs may involve multiple types of uses. The DRB may approve more than one principal use per lot (within separate structures or shared structures). Mixed uses shall be arranged to be compatible, and to minimize visual and noise impact for the residents of the development and adjacent properties. To achieve this, the DRB shall require landscaping, screening, and/or setbacks as appropriate.

- 6) Clustering.** Development shall be clustered to preserve rural character and the working landscape in the Rural, Conservation, and Residential Districts, and to further the efficient use of land in the Growth Center and Mixed Use District.

F) Open Space Standards.

- 1) PUDs shall be designed to preserve open space for one or more of the following reasons: parks, recreation, agricultural land, forestland, scenic views, and/or rural landscape protection. The location, size, shape, and intended use of lands set aside to be preserved for open space shall be approved by the DRB in accordance with the following:
 - a) A minimum of 10% of total project acreage shall be open space in the Growth Center and Mixed Use District and a minimum of 50% of the total project acreage shall be open space in all other Zoning Districts.
 - b) Notwithstanding (a) above, the location, shape, and size of the open space shall be suitable for its context and intended use.
 - c) Open space shall be configured to be contiguous with existing and/or potential open space and conform with and extend existing areas sharing similar characteristics or natural features and resources on adjacent parcels.
 - d) Areas preserved for agricultural and forestry use should be of a size that retains their eligibility for available tax abatement programs.
 - e) Sewage disposal areas, utility and road rights-of-way or easements, and access and parking areas shall not be counted as open space, except where the applicant can demonstrate, to the satisfaction of the DRB, that they will in no way disrupt or detract from the intended use for which the open space is to be protected.
- 2) Open space shall be protected for its intended use by one of the following means:
 - a) An easement granted to a third party for an appropriate open space use.
 - b) The open space may be held in common by a homeowners association and protected from further development by condition of DRB approval and by condition of any homeowner's association covenant.
 - c) The open space may be held by a single owner and protected from further development by condition of DRB approval and deed restriction.
 - d) The open space may be conveyed in fee simple to one of the following as approved by the DRB:
 - i) the Town of Fairfax, if it agrees; or
 - ii) a non-profit organization whose mission includes the protection of natural resources and/or public recreation.
 - e) The open space may be held in single ownership and the DRB may condition that it be made available, by deed, for public or common use in order to further one or more purposes of a PUD.
 - f) The open space may be protected by other similarly effective means acceptable to the DRB.

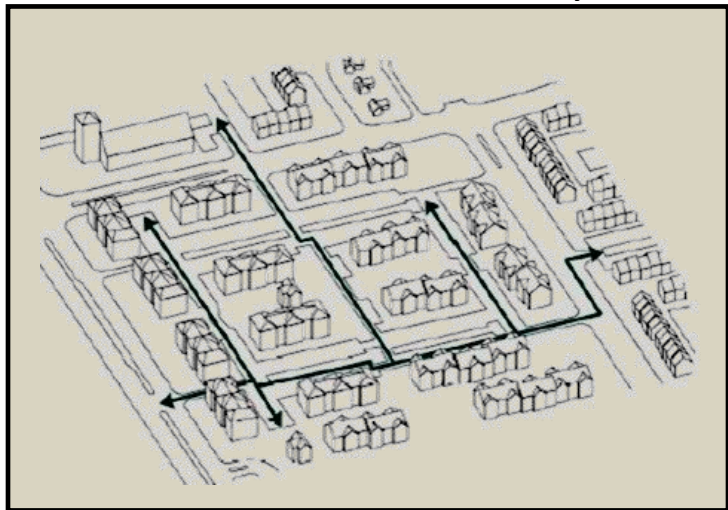
G) Density Bonus.

1) The DRB may grant a density bonus according to the criteria below. The density bonus shall be applied to the density calculated according to [Section 3.4\(E\)\(2\)](#).

- a) In the Growth Center and Mixed Use District, the DRB may grant a 5.0% density bonus for each of the criteria listed below which is met by the proposed project:
- i) The project incorporates re-use of existing historic structures.
 - ii) The project incorporates commercial **and** residential uses.
 - ii) The project incorporates walking trails or parks (for use by the public or by residents/occupants of the project only).
 - iii) The project incorporates pedestrian or recreation infrastructure, such as playground equipment, benches or picnic tables, BB-Q areas, gazebos or pavilions, playing fields, tennis courts, or other sports amenities, which is made available to the public or to residents/occupants of the project only.
 - iv) The project incorporates vehicular connectivity by making all proposed streets connect to the streets of adjacent developments to form a network with no dead-end roads (See Figure 3.4(b)).
 - v) The project incorporates pedestrian connectivity by making proposed trails and sidewalks connect to existing systems.
 - vi) The project provides land and/or infrastructure for public use without fee.
 - vii) The project has one or more LEED certified components.
 - viii) The project is designed to meet the needs of elderly or handicapped individuals or families whose income is less than the median income of Franklin County.

Figure 3.4(b)

This image is an example of a street network with connectivity



- b) In the Rural, Residential, or Conservation Districts, the DRB may grant a 2.0% density bonus for each of the criteria listed below which is met by the proposed project:
- i) The project incorporates walking trails or parks (for use by the public or by residents/occupants of the project only).
 - ii) The project incorporates vehicular connectivity by making all proposed streets connect to the streets of adjacent developments to form a network with no dead-end roads (See Figure 3.4(b)).
 - iii) The project incorporates re-use of existing historic structures.
 - iv) The project has one or more LEED certified components.

Article 4. Subdivision Approval

SECTION 4.1 APPLICABILITY.

Pursuant to the Act, all subdivisions of land and boundary adjustments within the Town of Fairfax require Subdivision Approval according to this Article.

SECTION 4.2 APPLICATION REQUIREMENTS.

- A) Submission Requirements.** For all subdivisions (including boundary adjustments), one original set of application materials is required for submission under this Section. The DRB may request additional copies. A set of application materials includes:
- 1) A completed Fairfax DRB Project Application Form,
 - 2) The application fee according to the fee schedule adopted by the Fairfax Select Board,
 - 3) A set of site plans that include all the information required in [Table 4.2](#),
 - 4) Adjoiner Information Form (abutting property owner information), and
 - 5) Any additional materials that may be required according to [Table 4.2](#) or by the DRB.
- D) Application Material Waivers.** The DRB may waive or vary application submission requirements it judges are not requisite in the interest of the public health, safety, and general welfare, or which are inappropriate both in the short and long term. No such waiver shall be granted if it would have the effect of nullifying the intent and purpose of the Town Plan or the Fairfax Development Regulations.

Text Box 4.2

Plan and Survey Plat Specifications

Sketch Plans. An informal sketch of the proposed subdivision, the purpose of which is to enable the Subdivider to save time and expense in reaching general agreement with the DRB on the design of the subdivision and objectives and requirements of these regulations. Sketch plans shall include basic information as required in [Table 4.2](#) and may be hand drawn.

Size and number of copies: No size requirement. One original copy is required, the Zoning Administrator may require additional copies.

Plot Plans. A plot plan is a detailed illustration of the proposed subdivision, which may be one sheet or many sheets as necessary to make the information clear and legible. Plot plans shall be drawn to scale and include detailed information as required in [Table 4.2](#).

Size and number of copies: Two original 18 inches by 24 inches or larger, six reduced size 11 inch by 17 inch copies. Additional copies may be requested as specified by the DRB during Sketch Plan Review, or by the Zoning Administrator.

Survey Plat. A map surveyed to scale on Mylar by a licensed land surveyor for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Survey Plats shall be prepared according to Section 4.4(A) and 27 V.S.A . Section 17.

Table 4.2 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	Sketch Plan Review	Boundary Adjustment	Minor Plot Plan Review or 2 Lot	Preliminary Major Plot Plan Review	Final Major Plot Plan Review
<i>Note: Information required in this Table may be prepared on 1 or more sheets, as necessary to make the information clear and legible.</i>					
Required Form (See Text Box 4.2)	Sketch Plan	Survey Plat ¹	Plot Plan	Plot Plan	Plot Plan
Location Map - showing the project location in the context of the whole town	✓	✓	✓	✓	✓
Title Block – including the following information:	✓	✓	✓	✓	✓
Project Title	✓	✓	✓	✓	✓
Plan Title (Overall site plan, utilities, stormwater, etc)	✓	✓	✓	✓	✓
Location Description	✓	✓	✓	✓	✓
Site Address	✓	✓	✓	✓	✓
Name of Landowner	✓	✓	✓	✓	✓
Name of Developer/Client (If different than landowner)	✓	✓	✓	✓	✓
Scale	✓ Approximate	✓	✓	✓	✓
Name, Title, License Number, and Stamp of Surveyor, VT Licensed Engineer, Architect, or Landscape Architect who prepared the plan (if applicable)	NA	✓	✓	✓	✓
North Arrow	✓	✓	✓	✓	✓
Date of preparation and record of any revisions	✓	✓	✓	✓	✓
Relevant Planning and Zoning Information , including zoning district, density analysis (how many lots/units allowed according to zoning standards), setbacks, parking standards, etc.	✓	NA	✓	✓	✓
Area of land in square feet or acres for each tract, lot, structure, and large feature.	✓ Approximate	✓	✓	✓	✓
Contour lines at intervals of 5 feet (unless waived or modified by DRB)	NA	NA	✓	✓	✓
1 – For approval of a Boundary Adjustment, the applicant may submit a Survey Plat for review by the DRB, rather than a Plot Plan. All other subdivisions require final approval of a plot plan by the DRB before a Survey Plat is required for filing in the land records.					











Table 4.2 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	Sketch Plan Review	Boundary Adjustment	Minor Plot Plan Review or 2 Lot	Preliminary Major Plot Plan Review	Final Major Plot Plan Review
Lot and tract identification – boundaries for entire tract, lot lines for each existing and proposed lot, and for any involved land (access roads, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot should be given a number for reference.	 Approximate				
Property Boundary Survey Signed and Stamped by Licensed Land Surveyor – Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original lot from which lots are subdivided) when: -it is 10 acres or less in size, and/or -greater than 50% is subdivided into lots	NA			NA	
Adjacent property and owners – all adjacent lands should be labeled with the name of the property owner(s).					
Existing features (i.e. non-portable features of the landscape) – Streams, ponds, and wetlands; structures, foundations, and old cellar holes; wells, springs, and septic systems; stone walls and fence lines; forest boundaries, fields, large trees, and rock outcroppings; transportation and utility infrastructure like roads, sidewalks, and power lines; and any other existing features.	 Approximate				
The proposed project – (i.e. all improvements planned for one or more related sites and which fall under the purview of these Regulations) – All proposed buildings, roads, driveways and parking areas, landscaping, utilities, signs, dumpsters, tanks, lights, water supplies, and septic systems.	 Approximate	NA			
Mitigation measures – Any stream or wetland buffers, or agricultural or wildlife habitat easements, or other areas required to be set aside for preservation/conservation.	 Approximate	NA			

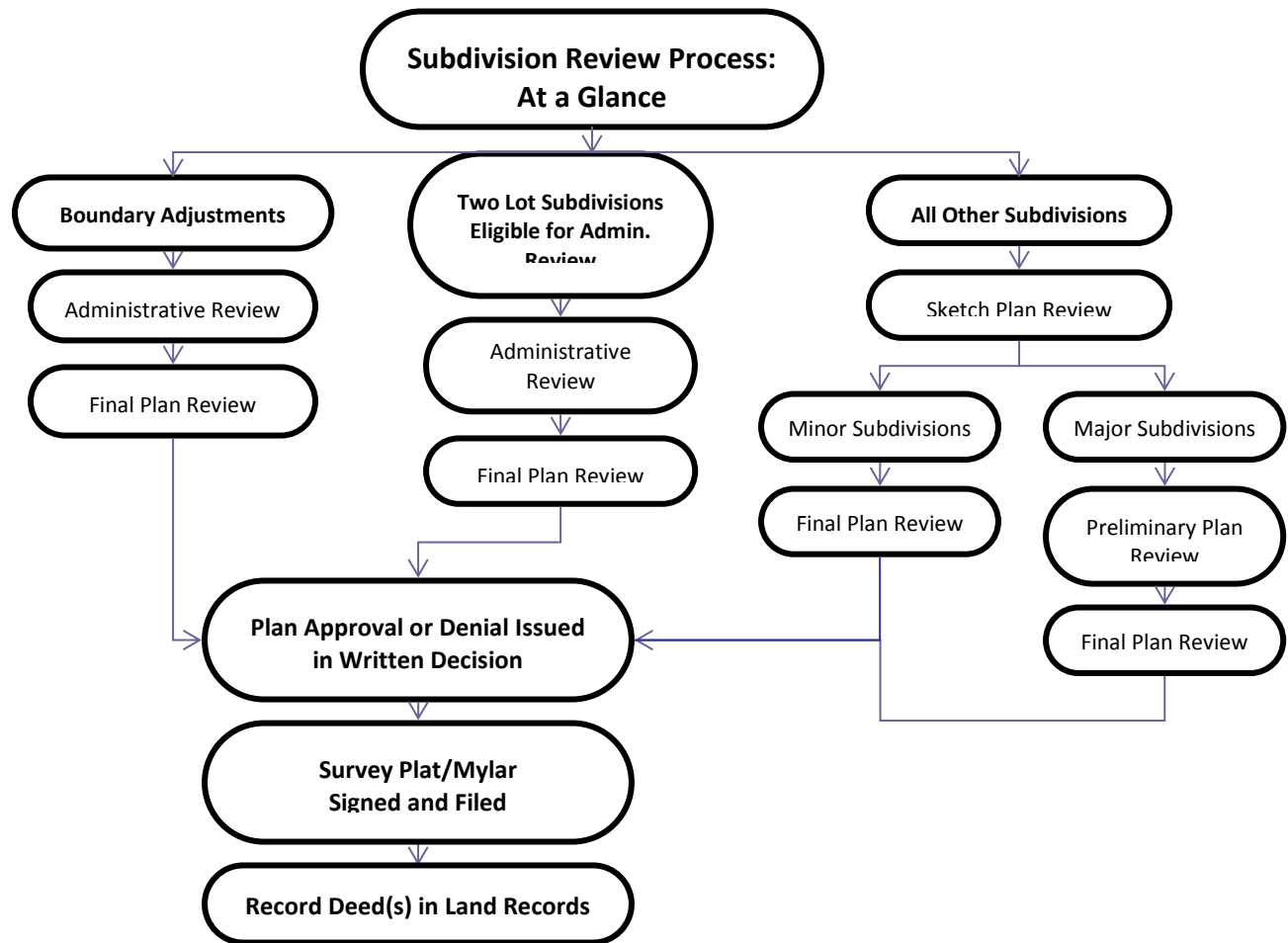
Table 4.2 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	Sketch Plan Review	Boundary Adjustment	Minor Plot Plan Review or 2 Lot	Preliminary Major Plot Plan Review	Final Major Plot Plan Review
Off-site Improvements that may be required locally or by the state, such as improvements that mitigate traffic impacts like a turning lane, or construction, buffers, landscaping or other mitigation within an adjacent easement or leased area.	✓ Approximate	NA	✓	✓	✓
Building envelopes, reserve areas, and open space. “Building envelopes” delineate the general area development is proposed. “Reserve areas” are those set aside for future development or expansion. “Open space” is any area set aside to satisfy the open space requirement for PUD approval.	✓ Approximate	NA	✓	✓	✓
Public rights-of-way and easements	✓ Approximate	✓	✓	✓	✓
Specialized Plans/Plats					
Utility Plan – Location of water and sewer improvements and easements, including force-mains, pump stations, and underground electric and telephone lines.	NA	NA	✓	✓	✓
Grading and Erosion Control Plan – Locations where sediment must be trapped before entering a watercourse and the devices used to impede erosion (i.e. silt fencing, hay-bale or stone dams around catch basins and at intervals in swales and ditches).	NA	NA	✓	✓	✓
Stormwater Management Plan – Detail on collection, retention, and treatment of stormwater. Should show site grades, direction of drainage flow, and design of any detention basins.	NA	NA	✓	✓	✓
Road and Bike/Pedestrian Plan – Current and proposed grades for the installation of roads, driveways, sidewalks, bike lanes, and other pedestrian amenities. Should show cross sections of proposed roads and sidewalks.	NA	NA	✓	✓	✓

Table 4.2 Subdivision Sketch Plan/Plot Plan Requirements					
✓ – the item is required NA – the item is not required	Sketch Plan Review	Boundary Adjustment	Minor Plot Plan Review or 2 Lot	Preliminary Major Plot Plan Review	Final Major Plot Plan Review
Landscaping Plan – Locations for existing and proposed vegetation, as well as structures, features, and other topographical information. Scientific and common names for proposed species should be identified. Areas proposed for clearing and no-cut zones should be identified.	NA	NA	✓	✓	✓
Lighting and Signage Plan – Locations and illumination of exterior lights. Location and dimensions of all exterior signs.	NA	NA	NA	✓	✓
Garbage Collection Plan – Location for garbage collection and method for containing garbage put out for pick-up.	NA	NA	✓	✓	✓
Architectural elevations for commercial and multi-household residential buildings – Renderings of the project's physical appearance as seen from the east, west, north, and south viewpoints.	NA	NA	✓	✓	✓
Transportation Impact Study – A report analyzing anticipated roadway conditions with and without the proposed project. The report may include an analysis of mitigation measures and a calculation of fair share financial contributions.	NA	NA	NA	NA	As Required
Master Plan - an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, and a description of the probable uses (drawn in sketch plan format).	NA	NA	NA	As Required	As Required
Legal Documents – A draft of all newly created or revised deeds, covenants, or other legal documents associated with the proposed development.	NA	✓	✓	As Required	✓

SECTION 4.3 REVIEW PROCESS

A) Overview. Detailed review process requirements for boundary adjustments, two lot subdivisions, minor subdivisions, and major subdivisions are included in this Section. The Subdivision Review process differs by subdivision type. See Figure 4.3 below for an overview.

Figure 4.3



B) Boundary Adjustments. A Boundary Adjustment is the adjustment of property lines between adjacent lots, which:

- does not create any new lots
- does not create any non-conforming lots
- does not impact access to any parcel.

1) Administrative Review Standards. Upon submission of a complete application for a Boundary Adjustment between two or more properties, proper payment of fees, and submission of all required supporting documentation; the following actions will take place:

- a) The Zoning Administrator shall conduct an Administrative Review of the proposed Boundary Adjustment and, if finding that the proposal meets all the applicable requirements of these Regulations, shall submit a written recommendation and draft decision to the DRB for approval of the Boundary Adjustment Survey Plat.
- b) The DRB will hold a public hearing, warned in accordance with [Section 8.4](#), to consider the Zoning Administrator's recommendation and either approve and sign the written decision and Boundary Adjustment Survey Plat, make amendments, or deny the boundary adjustment. When amendments are required, the written decision shall be issued within forty-five (45) days in accordance with [Section 8.5](#). The applicant shall file the Survey Plat in accordance with [Section 4.4\(A\)](#).

C) Two Lot Subdivisions. Upon the submission of a complete application for the subdivision of a parcel of land into no more than two lots, proper payment of fees, and submission of all required supporting documentation; the Zoning Administrator may conduct an Administrative Review of the proposed subdivision and make a recommendation to the DRB for approval of the project final plan. This Administrative Review replaces the normal subdivision requirement for a formal Sketch Plan Review by the DRB.

1) Qualification for Administrative Review. To be eligible for Administrative Review, projects shall meet all of the conditions listed below. If, prior to or during the process of conducting the Administrative Review, the Zoning Administrator determines that the project fails to meet any of the conditions listed below, or that some other unusual condition exists, the Zoning Administrator will refer the project to the DRB, which shall commence the review process following the normal subdivision procedures.

- a) The parcel being subdivided has not received prior Subdivision Approval from the Town within the last two years.
- b) The parcel being subdivided has not been part of a Boundary Adjustment within the past two years.
- c) The subdivision is not a PUD.
- d) The subdivision does not create any new roads (public or private) or cause an existing driveway to be classified as a road.
- e) The intended use of the subdivided parcels is residential.
- f) The proposed lots conform to all the standards of these Regulations regarding lot shape, size, frontage, and density.
- g) No prior condition exists which would prevent subdivision of the parcel.

If the applicant prefers, he/she may request formal review by the DRB even if the proposal meets the requirements for Administrative Review.

2) Administrative Review Standards. If the Zoning Administrator finds that the proposed project meets all of the above conditions and does not call for a novel or difficult interpretation of these Regulations, he/she may conduct the Administrative Review. The Administrative Review shall consider whether the proposal meets all applicable requirements of these Regulations.

- a) Following the review, the Zoning Administrator shall present a draft written decision with appropriate conditions to the DRB.
- b) The DRB will then schedule a public hearing, warned according to [Section 8.4](#), to review the draft decision and either deny the subdivision, make amendments, or approve the subdivision and sign the written decision and Survey Plat. When amendments are required, the written decision shall be issued within 45 days in accordance with [Section 8.5](#). The applicant shall file the Survey Plat in accordance with [Section 4.4\(A\)](#).

D) Sketch Plan Review. All subdivisions except Boundary Adjustments and Two Lot Subdivisions eligible for Administrative Review under (B) and (C) above require Sketch Plan Review by the DRB according to this Section.

- 1) **Public Hearing.** A public hearing shall be held by the DRB at the earliest available regular or special meeting after the time of submission to the Zoning Administrator a complete application for sketch plan review. The hearing shall be warned according to [Section 8.4](#).

The Subdivider, or duly authorized representative, shall attend the public hearing to discuss the requirements of these Regulations for lot layout, building location, streets, improvements, stormwater management, fire protection, resource protection, and other aspects; as well as the availability of existing services and conformance with the planning standards of these Regulations.

- 2) **Classification as Major or Minor Subdivision.** The DRB shall classify the sketch plan at the public hearing as either a Minor Subdivision or a Major Subdivision.

Text Box 4.3

Subdivision Classification

Boundary Adjustment - Adjustment of property lines between adjacent lots that does not create any new lots, does not create any non-conforming lots, and does not impact access to any parcel.

Two Lot Subdivision - The subdivision of a parcel of land into no more than two lots, which qualifies for Administrative Review according to Section 4.3(C)(1).

Minor Subdivision - The subdivision of land into nine or less lots within a continuous five-year period, which does not require the installation of new public streets or involve non-residential uses, or a subdivision otherwise classified as Minor by the DRB at sketch plan review. Note: A two-lot subdivision that qualifies for administrative review is not considered a Minor Subdivision.

Major Subdivision - The subdivision of land into ten or more lots within a continuous five-year period; any subdivision requiring installation of new public streets; any non-residential subdivision; or any other subdivision classified as Major by the DRB at sketch plan review.

- 3) Action on Sketch Plan.** The DRB shall study the Sketch Plan to determine whether or not it conforms to these Regulations and any other municipal regulations in effect. Where it deems necessary, the DRB will make specific recommendations for changes in subsequent submissions. Where necessary for the protection of the public health, safety, and welfare, the DRB may require that a Minor Subdivision comply with all or some of the requirements for Major Subdivisions specified in these Regulations.
- 4) Site Visit.** At the Sketch Plan Review meeting, the DRB may request a site visit. The applicant will be asked to mark significant aspects of the proposal for DRB observation. The public will be invited to attend, but no testimony or evidence may be given at the site visit.
- 5) Number of Reviews.** Additional Sketch Plan Review public hearings will be permitted at the mutual discretion of DRB and applicant. This is to ensure the most complete and efficient review of projects, to save resources for both the applicant and the Town, and to provide public and municipal input at the earliest stages of project development.
- 6) Master Plan Review.**
- a) When part of a larger parcel is proposed for development, the DRB may require a description of the potential build-out of the entire parcel and adjacent parcels (Master Plan) as part of the requirements established after Sketch Plan Review.
 - b) When required, the Master Plan build-out shall include an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the parcel, and a description of the probable uses. The build-out may be drawn in a sketch plan format. The DRB may require that the build-out be submitted as part of an extended sketch plan review, or as a part of the preliminary or final plan.
 - c) Requirements for Master Plan review are intended to ensure the orderly development of the Town, and will be required when the DRB determines that the development currently under application may have an impact on the future development potential of the remaining parcel or adjacent parcels. It will also be required when the DRB determines that the future build-out of the applicant's holdings, combined with the current proposal may have a significant impact on the Town of Fairfax.
 - d) Approval of an applicant's current application does not constitute approval of the Master Plan build-out.

E) Minor Subdivision Review.

- 1) Application Process.** Within 6 months of classification of the Sketch Plan as a Minor Subdivision by the DRB, the Subdivider shall submit application materials for approval of a Minor Subdivision Plan to the Zoning Administrator. Complete application materials shall contain those items set forth in [Section 4.2\(A\)](#) of these Regulations. The Plan shall conform to the layout approved at Sketch Plan Review plus any recommendations made by the DRB and agreed upon by the applicant. At the expiration of 6 months from

classification by the DRB, the Subdivider shall be required to resubmit a Sketch Plan Application, unless an extension of up to six months has been requested in writing before expiration and is granted by the DRB.

- 2) Public Hearing and Final Approval.** The DRB must hold a public hearing on Final Plan Approval of a Minor Subdivision before issuing a decision in accordance with these Regulations. Public notice, public hearing, and decision requirements in [Sections 8.4](#) and [8.5](#) apply.

F) Major Subdivision Review.

- 1) Preliminary Plan Application Process.** Within 6 months of classification of the Sketch Plan as a Major Subdivision by the DRB, the Subdivider shall submit complete application materials for approval of a Preliminary Plan for a Major Subdivision to the Zoning Administrator. Complete application materials shall include those items set forth in [Section 4.2\(A\)](#) of these Regulations. The proposal in the application materials shall conform to the layout approved at Sketch Plan Review, plus any recommendations made by the DRB and agreed upon by the applicant. At the expiration of 6 months from classification by the DRB, the Subdivider shall be required to resubmit a Sketch Plan Application unless an extension of up to six months has been requested in writing before expiration and is granted by the DRB.

- a) Preliminary Plan Public Hearing and Approval.** The DRB must hold a public hearing on Preliminary Plan Approval of a Major Subdivision before issuing a decision in accordance with these Regulations. Public notice, public hearing, and decision requirements in [Sections 8.4](#) and [8.5](#) apply.
- b) Phasing.** At the time the DRB grants Preliminary Plan Approval, it may require the Plan to be divided into two or more phases to be developed at separate times. The DRB may impose specific conditions for the filing of an application for Final Plan Approval to ensure the orderly development of the Plan and coordination with the planned and orderly growth of the Town as reflected in the Town Plan and any capital budget and program in effect.
- c) Effect of Preliminary Plan Approval.** Approval of a Preliminary Plan does not constitute approval of the subdivision and does not guarantee approval of the Final Plan. Prior to approval of the Final Subdivision Plan, the DRB may require additional changes as a result of further study. The approval of a Preliminary Plan is effective for a period of 1 year. Any Preliminary Plan not receiving Final Plan Approval prior to the expiration of 1 year shall be null and void, and the Subdivider shall be required to resubmit a new Plan for Sketch Plan Review subject to all new Regulations. Should the DRB impose phasing as a condition of Preliminary Plan Approval, it may extend the 1-year effective period of Preliminary Approval. Any extension of time granted for this reason will be specifically included in the written decision of Preliminary Plan Approval. When requested in writing, the DRB may also grant extensions beyond this 1-year period even for projects not involving phasing, when the delays are due to circumstances beyond the applicant's control.

- 2) Final Plan Application Process.** Within 6 months of Preliminary Plan Approval, the Subdivider shall submit complete application materials for approval of a Final Subdivision Plan for a Major Subdivision (see [Section 4.2\(A\)](#)). This is necessary to ensure review of Final Plan application materials within the 1-year time frame established in [Section 4.3\(F\)\(1\)\(c\)](#) above. Any application materials received beyond 6 months from Preliminary Plan Approval will be subject to any new regulations that have gone into effect. This may cause the application to be sent back to Sketch Plan Review if the new regulations or circumstances have changed in a way that would alter the original decision under Preliminary Plan.

The Final Plan application materials must conform to the layout approved at Preliminary Plan Review, including any amendments required by the DRB. If Final Plan Approval has not been given at the expiration of 1-year from Preliminary Plan Approval, the Subdivider shall be required to resubmit a Sketch Plan, unless extended by the DRB under [Section 4.3\(F\)\(1\)\(c\)](#) above.

Final Plan Public Hearing and Final Approval. The DRB must hold a public hearing on Final Plan Approval of a Major Subdivision before issuing a decision in accordance with these Regulations. Public notice, public hearing, and decision requirements in [Sections 8.4](#) and [8.5](#) apply.

SECTION 4.4 REQUIREMENTS AFTER FINAL APPROVAL

- A) Filing of Final Survey Plat.** Upon approval of the Final Plan by the DRB, the Subdivider shall prepare a Survey Plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17. A Survey Plat is a map drawn to scale on Mylar by a licensed land surveyor of one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. A signed certification is required from the licensed land surveyor who prepared the Survey Plat, indicating that all the permanent lot markers (pins) have been set. Survey Plats shall be prepared according to the specifications listed below. Draft paper Survey Plats may be required for approval by the DRB before preparing a Mylar copy for filing.

Survey Plat Specifications:

- Mylar
- Clear and legible data and information
- 18.0 inches by 24.0 inches in size
- Stamp and signature of licensed Land Surveyor
- Margin of 2.0 inches outside of the borderlines on the left side for binding and a 1.0-inch margin outside the border along the remaining sides
- Inset locus map clearly indicating the location of the land depicted and a legend of symbols used
- Plat scale ratios sufficient to allow all pertinent survey data to be shown, and graphic scale graduated in units of measure used in the body of the plat

The Chairperson (or acting Chairperson) of the DRB shall endorse the Survey Plat with the date of Final Plan Approval. Following endorsement by the chairperson of the DRB and within 180 days of the DRB's Final Approval, the Subdivider shall submit the Survey Plat to the Town Clerk for filing. The Town Clerk shall endorse the Survey Plat before filing. The DRB's written decision, which includes all permit conditions set by the DRB, shall be filed in the land records of the Town and their location must be clearly referenced on the Survey Plat.

Final Plan Approval shall expire if the Subdivider does not receive endorsement and file the Survey Plat and related documents within the 180-day period. The Zoning Administrator, upon written request prior to the expiration date, shall extend the date for filing the Survey Plat by an additional 90 days if final local or state permits or approvals are still pending.

- B) Revisions.** No changes, erasures, modifications, or revisions shall be made on any subdivision Survey Plat after Final Approval, unless said Survey Plat are first resubmitted to the DRB in accordance with these Regulations and the DRB approves the modifications. For such revisions, Sketch Plan and where applicable, Preliminary Plan Review, may be combined into Final Plan Review at the DRB's discretion. The Zoning Administrator is authorized to allow changes to previously approved Subdivision Final Site Plans only with the consent of the Development Review Board. Any changes to previously approved Subdivision Final Site Plans in the Growth Center or Mixed Use Districts shall require the applicant to apply for re-approval by the DRB.
- C) Acceptance of Public Infrastructure.** Final approval by the DRB shall not be deemed to constitute or be evidence of acceptance by the Town of any street, road, easement, utilities, park, recreational area, or open space shown on the Final Plan or Survey Plat. Such acceptance may only be accomplished by formal resolution of the Select Board.
- D) Other Permits and Regulations.** Approval of the Final Plan shall not exempt an applicant from compliance with all other applicable local, state, or federal regulations, standards, policies, and ordinances.

SECTION 4.5 SUBDIVISION REVIEW STANDARDS.

- A) Application of Standards.** The DRB shall evaluate all subdivisions in accordance with the following standards and the Planning and Design Standards in [Article 7](#). The DRB may require the Subdivider to submit data addressing impacts related to these standards. In light of findings made on these standards, the DRB may require modification and phasing of the proposed subdivision or correction of any adverse impacts.
- B) Overall Standard of Review.** Land shall not be subdivided in such a way that structures, roads, and utilities occur on land that is unsuitable due to flooding, improper drainage, steep slopes greater than 25%, soils that are shallow to bedrock or have a high water table, rock formations, adverse earth formations or topography, utility easements, or other features which will be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas.

C) Lot Size and Density.

- 1) No lot shall be created that does not meet the minimum lot area (See Table 2.3) of the district in which it is located, unless approved as a PUD.
- 2) **Calculating the Number of Lots.** The maximum allowed number of lots for a particular subdivision is calculated by dividing the total **developable land area** by the minimum lot area for the District (See [Section 2.3](#)). Given the physical limitations to development on land in the Town and the significant natural and agricultural resources in the Town that are a high priority for protection in the Town Plan, fewer lots may be appropriate and required in some cases. The areas within a subdivision that fall under the following categories **shall not** be considered **developable land area**:
 - a) Land subject to an easement which would prevent construction within the easement area.
 - b) Land required for public roads, private roads, or public recreation.
 - c) Undevelopable land because of state wetland or other environmental regulations.
 - d) Land unsuitable for development because of steep slopes of 25% or greater.
 - e) Land located in a floodplain.
 - f) Land otherwise undevelopable because of local, state, or federal regulations.
- 3) **Lots Located in More than One Zoning District.** Where a lot is located in two or more zoning districts, the minimum allowed density for the entire lot shall be the aggregate of the allowable density of each portion that is in a separate district.

Text Box 4.5

Density: The number of acres of land area required for a given number of residential units or uses. See [Section 2.3](#).

D) Lot Layout.

- 1) **Lot Shape.** Lots shall be designed with consideration of natural and manmade features such as tree lines, stonewalls, ridgelines, roads, shorelines or other features recognizable on the land. Where this requirement conflicts with D(4) below, this requirement shall govern.
- 2) **Regularly Shaped Lots.** Regularly shaped lots are required and all lots shall conform to the dimensional standards in Article 2. Lots designed with irregular shapes such as curves, jogs, “doglegs”, “bowling alleys”, or lots that are otherwise contorted in order to circumvent these Regulations are not regularly shaped lots.
- 3) **Corner Lots.** Corner lots shall have sufficient width to permit a front setback distance along each lot frontage.

- 4) Side and Rear Lot Lines.** Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines; variations of up to 15.0 degrees will be accepted. Rear lot lines will be generally parallel to front lot lines; variations of up to 15.0 degrees will be accepted.
- 5) Exceptions.** Exceptions may be made from the above (1-4) lot shape requirements only where expressly permitted by the DRB. Exceptions will be approved when warranted by conditions of topography, protection of natural resources, existing road location and/or shape or use of the tract being subdivided and when, in the judgment of the DRB, no other form of subdivision of the property, including PUD is appropriate or possible without undue hardship to the applicant.

Article 5. General Regulations and Review Standards

SECTION 5.1 EXISTING SMALL LOT

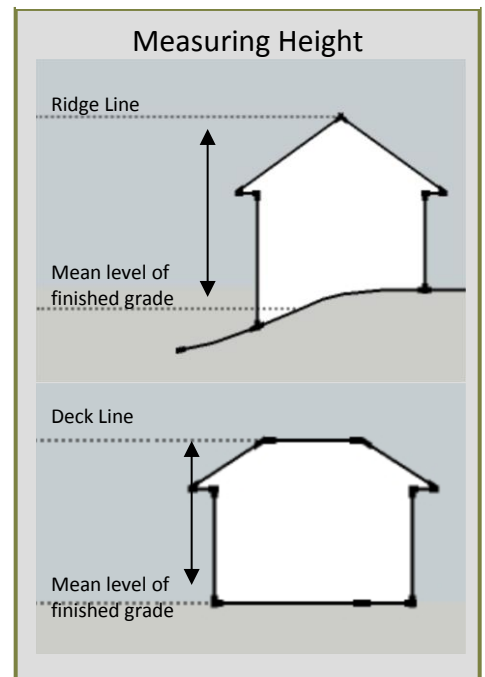
- A) Any lot in existence before the effective date of these Regulations that does not conform to the minimum lot area requirement in [Table 2.3](#) is considered an existing small lot.
- 1) Existing small lots that are 1/8 acre or more with a minimum width or depth dimension of forty (40.0) feet may be developed provided all other requirements of these Regulations are met, including setbacks.
 - 2) In all Zoning Districts except for the Growth Center and Mixed Use District, existing small lots which are in common ownership with any adjacent parcel shall be merged before approval of any land development on the existing small lot, except in accordance with Title 24, Section 4412 (2)(B)(i) – (iv).

SECTION 5.2 HEIGHT LIMITS

No structure shall exceed 35.0 feet in height above ground level, except for Wireless Telecommunication Facilities and Small Off-grid Wind Turbines.

- A) Height will be measured as the vertical distance from the mean level of the finished grade of the building to the ridge-line or deck-line of the roof (Figure 5.2).
- B) Ornamental and symbolic features of buildings and structures including spires, towers, cupolas, belfries, domes are exempt from the height regulations provided they are not used for human occupancy or commercial advertisement and do not take up more than 10.0% of the total roof area. Solar panels mounted on buildings or other structures are also exempt from the height regulations.

Figure 5.2



SECTION 5.3 NONCONFORMITIES

- A) **Applicability.** Nonconformities include structures and uses in existence before the effective date of these Regulations, which do not conform to the requirements set forth in these Regulations. Structures located on existing small lots, which otherwise conform to these Regulations, including setbacks, are not considered nonconforming. Structures and uses

improperly authorized as a result of error by the Zoning Administrator are nonconforming.

B) Continuation of Nonconformities.

- 1) **Nonconforming Structures.** No provision of these Regulations shall prevent the normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of non-conformance.
- 2) **Nonconforming Uses.** Any non-conforming use of a structure or of land may be continued indefinitely except that a non-conforming use shall not be reestablished after being discontinued for a period of one year, or after being changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.

C) Improvements to Nonconformities.

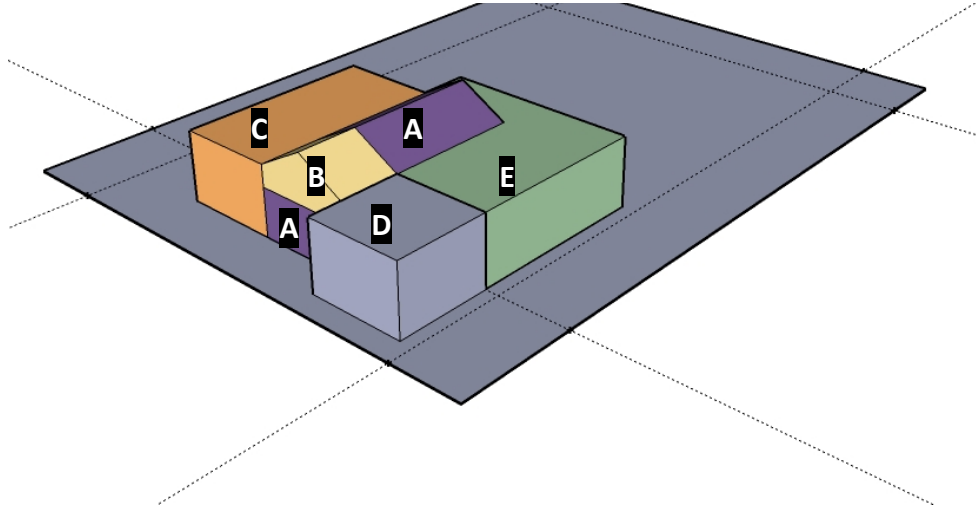
- 1) **Nonconforming Structures.** The Zoning Administrator may approve improvements to non-conforming structures which enlarge footprint area or add floor space and do not increase the degree of non-conformity through issuance of a Zoning Permit in accordance with these Regulations. The DRB may approve improvements to nonconforming structures that increase the degree of nonconformity as a conditional use only if required to comply with environmental, safety, health or energy codes, laws or regulations. See [Figure 5.3](#) for an illustration of increasing the degree of nonconformity.
- 2) **Nonconforming Uses.** Nonconforming uses shall not be expanded. Improvements that enlarge footprint area or add floor space to structures occupied by nonconforming uses are prohibited. Under Conditional Use Review, the DRB may approve an improvement to a nonconforming use that does not expand the use, enlarge footprint area or add floor space, such as changing a sign.

D) Replacing Damaged or Destroyed Nonconformities.

- 1) The replacement of a damaged or destroyed nonconforming structure may be approved according to the same provisions for improving nonconforming structures outlined in 5.3(C) above.
- 2) The resumption of a nonconforming use after its structure was damaged or destroyed may be approved provided it complies with the provisions outlined in 5.3(C) above.

Figure 5.3 Increasing the Degree of Nonconformity of a Structure

The building 'A' is the original nonconforming structure because it encroaches into the setback. Additions 'B' and 'C' are allowed under these regulations because they do not encroach further into the setback than Building 'A'. Addition 'D' is not allowed under these regulations because it encroaches further into the setback than Building 'A'. Addition 'E' is allowed because it is not within the setback area of the road, or side or rear property lines.



SECTION 5.4 PARKING REQUIREMENTS

- A) Off street parking spaces shall be provided as specified by use in Table 5.4. The DRB, under Site Plan Review, may approve fewer off-street parking spaces for non-residential uses if the applicant provides sufficient information to justify a smaller parking space demand.

Table: 5.4 Off Street Parking Spaces	
Use	Minimum Parking Spaces Required
Lodging establishments	1.0 per sleeping unit
Residential (units w/ more than 1 bedroom)	2.0 per dwelling unit
Residential (1 bedroom or efficiency units)	1.0 per dwelling unit
Church & Private School	1.0 per 3.0 seats in principal room
Club	1.0 per 6.0 members
Theater	1.0 per 6.0 seats
Hospital or Nursing Home	1.0 per 3.0 beds & 1 per employee
Professional Office, Business Service and Medical Clinic	1.0 per 250.0 sq. ft. of gross floor area
Retail Store	1.0 per 300.0 sq. ft. of gross sales area
Eating Establishments	1.0 per every 4.0 seats
Industrial	1.0 per each 1.5 employees on the largest shift
Other uses	As required by the DRB

B) Off-Street Parking Standards.

- 1) Adequate space for maneuvering in and out of parking and loading areas shall be provided and located so as not to interfere with circulation to and within the site.
- 2) Parking areas may be required to be landscaped or screened from adjacent uses.
- 3) Parking shall be located in the side /rear of the development unless, upon the judgment of the DRB, some or all parking in the front is more appropriate.
- 4) Parking will be prohibited from the front, side, and rear yard setback areas unless, upon the judgment of the DRB, some or all parking in the setback areas is more appropriate.
- 5) Relocation or redesign of parking areas may be required to limit runoff and control erosion.
- 6) The DRB may limit the size and location of any paved area.
- 7) All parking areas shall be clearly defined and marked.
- 8) The DRB may limit the amount of parking or require shared parking among compatible uses where appropriate.

SECTION 5.5 PERFORMANCE STANDARDS

The following performance standards must be met by all uses in all districts. Uses shall not under normal circumstances:

- A) Emit any intensity of odor which is considered offensive AND uncharacteristic of the area (as defined in the Zoning District purpose statements in [Section 2.4](#) and the Fairfax Town Plan).
- B) Produce noise that exceeds 70 decibels at the property line, unless it is the result of occasional, customary activities associated with an allowed use (e.g., lawn mowing or garden cultivating).
- C) Emit any smoke in excess of that shown on Ringelmann Chart #2.
- D) Emit any dust, dirt or noxious gases which endanger the health, comfort, safety, or welfare of the public or of neighbors, or which causes any damage to property, business or vegetation.
- E) Have lighting or signs which create glare and which could impair the vision of a driver of any motor vehicle.
- F) Present an unreasonable risk of fire or explosion or threat to public safety.

- G) Cause sewage or other harmful wastes to be discharged into any watercourse or into any sewage disposal system beyond its proper capacity.

SECTION 5.6 RECREATIONAL/CAMPING VEHICLES WITH SLEEPING QUARTERS

A travel trailer, recreational vehicle, motor coach, or other travel vehicle with sleeping quarters may be stored or parked on a lot provided that the following conditions are met:

- A) It must meet the district setbacks.
- B) It shall not be permanently attached to the land.
- C) It shall be for non-commercial use only.
- D) It may not be occupied for more than 90 days in a calendar year.
- E) It must comply with all other provisions of these Regulations.

SECTION 5.7 SIDING AND FOUNDATION

Any permanent structure intended for the shelter of persons shall have a permanent foundation. Permanent siding shall be installed within six months after occupancy.

SECTION 5.8 SIGNS

Allowed signs fall into two categories: Permitted Signs (signs which are allowed but require a Zoning Permit) and Exempt Signs (signs which are allowed and require no Zoning Permit). Changing the size, shape, location, or illumination of allowed signs, (pre-existing, non-conforming or already permitted) requires a Zoning Permit. All other signs are prohibited. Listed below are the types, quantities, sizes, locations, and other requirements for both Permitted and Exempt signs.

A) Permitted Signs.

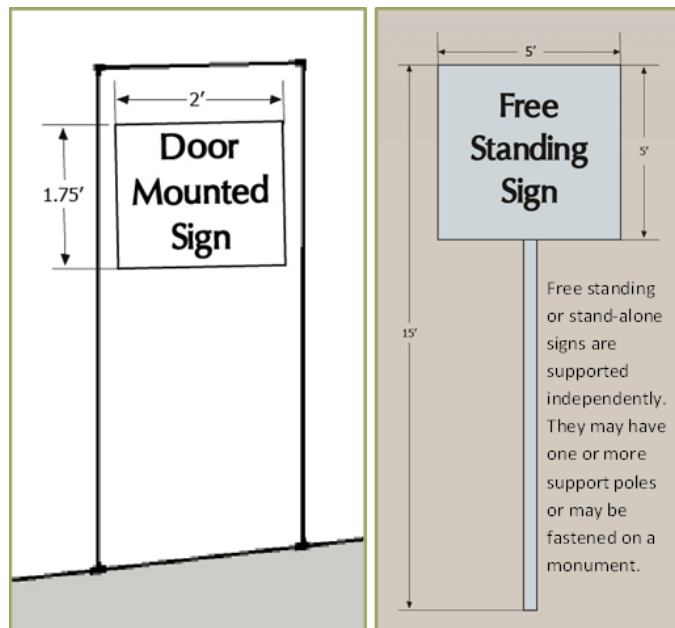
- 1) **Permanent business signs** for allowed business uses listed in [Table 2.2](#) shall comply with the requirements of this Section, except that Home Businesses and Home Occupations shall comply with the sign requirements in [Section 6.5](#). Each business property is allowed up to three signs: a) one free standing sign not to exceed twenty-five (25.0) square feet per side; b) one wall-mounted sign, either mounted on the surface of the building wall and not to exceed ten (10.0) square feet, or hung from and perpendicular to the building wall and not to exceed six (6.0) square feet per side; c) one door sign not to exceed three and a half (3.5) square feet. See [Figure 5.9](#) for illustrations and specifications for permanent business signs.

2) Temporary Construction Signs.

One construction sign, advertising or indicating a subdivision or residential development, is allowed at the entrance of the project. It may contain the name of the General Contractor and the Subcontractors. The sign shall not exceed twenty-five (25) square feet per side and shall be promptly removed when construction is complete.

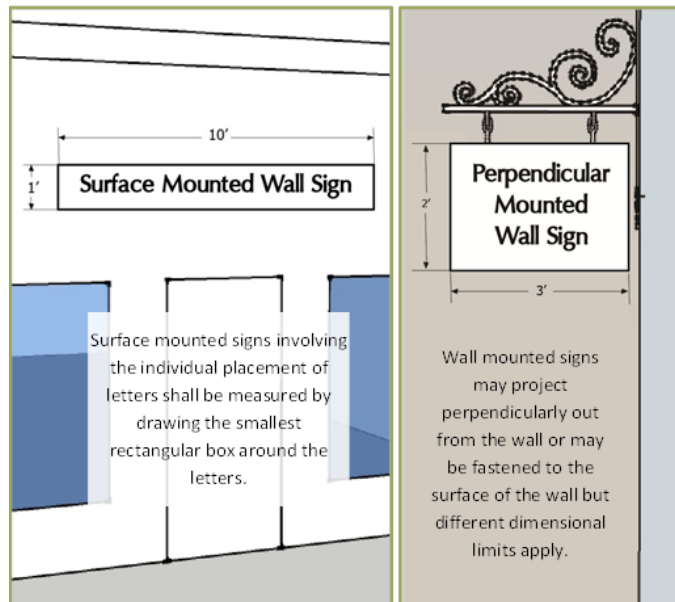
- ## 3) Permanent Subdivision or Development Signs.
- One permanent sign (no larger than fifteen (15.0) square feet per side), indicating a subdivision or residential development.

Figure 5.8



B) Exempt Signs.

- 1) Temporary signs (unlighted, and not to exceed six (6.0) square feet per side). Signs remaining in place for more than six (6) months are not considered to be temporary. Temporary signs must be on the property being advertised.
- 2) Sandwich boards or other similar signs placed in the front of the business or public use and which must be removed at night. Such signs are not to exceed six (6) square feet per side.
- 3) Signs in rights-of-way erected by the State or Town.
- 4) Temporary signs or banners advertising public or community events can be displayed in designated locations on Town property with the prior permission of the Select Board, but must be promptly removed following the event.
- 5) Official business directional signs and non-advertising signs for directional, safety or public service purposes provided they are in conformance with State Statute (Title 10, Chapter 21).
- 6) One residential sign per dwelling unit identifying the occupant, not to exceed two (2.0) square feet in area; and residential flags or banners intended solely for ornamental or non-advertising purposes.
- 7) Signs conveying legal warnings relating to the property on which they are posted, such



as those related to trespassing and hunting.

- 8) Temporary election signs to be posted and removed in accordance with State Law.
- 9) Window signs, not to exceed ten (10) square ft. per window.
- 10) Bulletin boards or similar displays for announcing community affairs.
- 11) Devices such as clocks displaying the time, temperature and/or date.
- 12) House numbers.
- 13) Temporary Public Notices in accordance with State Law.

C) General Standards.

- 1) No sign shall be designed, constructed, or positioned, which constitutes a hazard to public safety.
- 2) No outdoor advertising sign shall be allowed in any district except on premise for an allowed use, unless otherwise stated in this Section.
- 3) Internally illuminated signs are allowed in all zoning districts except the Growth Center. Lighting for signs shall be such that it illuminates only the sign and does not cause undue glare, impair the visions of drivers of motor vehicles, or illuminate neighboring properties.
- 4) Signs in the Growth Center district shall have no internal illumination and may only be illuminated by a downward-directed, shielded, continuous, non-flashing external light. Direction and shielding of lighting shall be such that it illuminates only the sign and does not cause undue glare, impair the vision of drivers of motor vehicles, or illuminate neighboring properties
- 5) Signs shall have no moving or animated parts or displays, with the exception of traffic control devices in public rights of way erected by the State or Town.
- 6) Free standing signs shall not exceed fifteen (15.0) feet in height, as measured from the average grade of the ground to the top of the sign.
- 7) All signs shall be maintained to stay in a secure and safe condition. If the Zoning Administrator determines that a sign is not secure, safe or in good state of repair, a written warning and/or notice may be issued with a request that any defect in the sign shall be removed or repaired by its owner or permittee within thirty (30) days of notification. If the sign is not repaired or removed within the specified period, The Zoning Administrator may have the sign removed at the owner's or permittee's expense.
- 8) Signs are allowed in a setback area, but no sign may be placed in the road right of way.
- 9) Wall signs that extend above the eave, and roof signs, are not allowed.

SECTION 5.9 WASTE MANAGEMENT

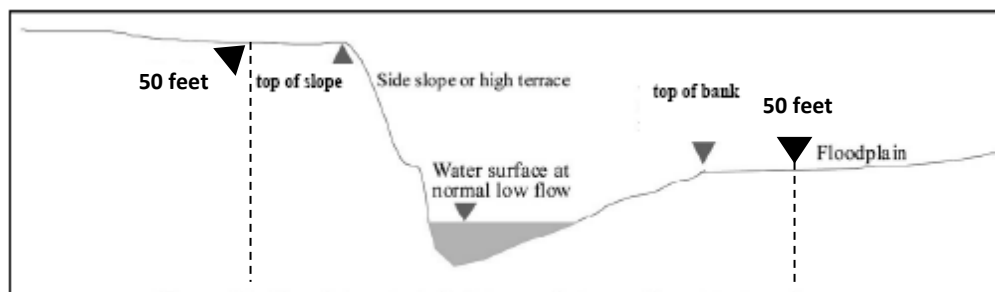
- A) Any parcel that is developed which has frontage on a town road will deposit its trash and recycling at the intersection of its driveway (or approved right-of way) and the town road, at the designated time and day of trash collection as established by the Town of Fairfax.
- B) Any parcel or development which does not have frontage on a town road will deposit its trash and recycling in an area established for that purpose by approval of the DRB at the intersection with a public road, or will make arrangements for pick-up at each dwelling with a private contractor. The DRB may require such designated areas to be enclosed in an appropriate manner to prevent the unwanted dispersal of trash prior to pick-up.

SECTION 5.10 WATER QUALITY PROTECTION

- A) Source Water Supply Protection.** Source protection areas (SPAs) are required by the Vermont Department of Environmental Conservation (DEC) for all public drinking water sources located in Fairfax. SPAs encompass the recharge area for public drinking water sources, which is the land surface area where the drinking water is drawn. The Zoning Administrator shall assist applicants in determining whether their development is located in a SPA.
 - 1) All allowed land uses according to [Article 2](#) other than single and two-household dwellings, which are located in a DEC approved SPA, shall require Conditional Use Approval from the DRB before the Zoning Administrator may issue a Zoning Permit.
 - 2) In addition to Conditional Use Application requirements, the DRB may require the applicant to provide documentation from a qualified professional environmental consultant on the impact the proposed use will have on the public water source. The DRB shall not approve land development that will have an undue adverse impact on the public water source. The DRB may require mitigation measures to limit impact as recommended by the qualified environmental consultant.
- B) Stream Corridor Protection.** A naturally vegetated 50.0 foot wide riparian buffer on each side of streams will help control soil erosion and protect water quality.
 - 1) To enable adequate space for a riparian buffer, all structures that require a Zoning Permit under these Regulations shall be setback at least 50.0 feet from each side of all named streams according to the Vermont Hydrography Dataset RF 5,000 scale, published by the Vermont Center for Geographic Information. The Zoning Administrator shall assist applicants in determining whether any named streams are located within or near their proposed development; however, it shall be the burden of the applicant to submit accurate information.

- 1) Stream buffers shall be measured inland perpendicular from either the top of bank or the top of slope, depending on the stream channel characteristics. Stream buffers measured from the top of bank are those with a flat, wide floodplain onto which the stream overflows during periods of high water flow. The top of bank begins at the streamside edge of the adjacent floodplain. If there is a wetland present adjacent to the floodplain, the top of bank begins at the upland edge of the contiguous wetland. In some cases the buffer will be entirely located within the floodplain. All land development within the Flood Hazard Overlay District shall comply with the Fairfax Flood Hazard Area Regulation Ordinance. Stream buffers measured from the top of slope are those with steep valley side slopes or high terraces. Figure 5.10 below illustrates where the top of bank and top of slope are in relation to a stream.

Figure 5.10
Finding Top of Slope and Top of Bank for Measuring Stream Setbacks



SECTION 5.11 WASTEWATER AND WATER SUPPLY

All structures and uses that generate wastewater or require access to potable water may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as revised from time to time by the DEC). Applicants proposing land development that generates wastewater or requires access to potable water must contact the Agency of Natural Resources District Permit Specialist to determine if such a permit is required.

- A) If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Zoning Administrator.
- B) It shall be unlawful to use or occupy any new principal structure or accessory dwelling requiring a Wastewater and Potable Water Supply Permit until a Certificate of Occupancy has been issued by the Zoning Administrator (See [Section 2.1 \(F\)](#)).

Article 6. Specific Use Standards

SECTION 6.1 ACCESSORY DWELLINGS

- A)** One accessory dwelling may be permitted where a single-household residence is the principal use of the property and provided the requirements of this Section are met. Accessory dwellings are not considered principal residential units for the purpose of density calculations and road/driveway access determinations. Accessory dwellings must satisfy the following requirements:
- 1) The accessory dwelling shall be located within or appurtenant to a single-household dwelling.
 - 2) Floor space shall not exceed 30.0% of the floor space of the existing finished living area of the single-household residence or 400.0 square feet whichever is greater.
 - 3) The owner must occupy either the primary residence or the accessory dwelling.
 - 4) An Accessory dwelling requires a Certificate of Occupancy per [Section 2.1\(F\)](#) of the Fairfax Development Regulations.
- B)** For operating farms, up to two accessory dwellings may be permitted for farm workers. These dwellings need not comply with standards 1-2 in 6.1(A) above, but must meet the dimensional standards and other requirements of these Regulations, and must be smaller in size and prominence than the principal farmhouse.
- C)** Accessory dwellings shall not be subdivided from the original parcel except in conformance with Article 4.

SECTION 6.2 ADAPTIVE REUSE OF HISTORIC STRUCTURES

- A) Purpose.** Adaptive reuse is intended to allow for the continued, economically viable use of historic structures, such as historic barns, that have outlived their original purpose but contribute to the historic, architectural, and/or cultural fabric of the community. Accordingly, alternative uses may be allowed within the current dimensions of a historic structure, subject to Conditional Use Review under [Section 3.1](#), and the requirements of this Section.
- B) Eligible Structures.** Structures eligible for adaptive reuse are limited to those which:
- 1) Are no less than 50 years old and are listed, or eligible for listing, on the Vermont Historic Sites and Structures Survey for the Town of Fairfax, maintained by the Vermont Division for Historic Preservation; or
 - 2) Have historical or architectural significance to the Town, as determined by the DRB based on application information and/or evidence presented in hearing. The DRB may

consult the Vermont Division for Historic Preservation and/or the Fairfax Historical Society; and/or require the applicant to submit an independent evaluation prepared by a qualified architectural historian, to be paid for by the applicant, in order to make a determination regarding the structure's historic or architectural significance.

- 3) Can safely house and support the intended use(s).

C) Adaptive Reuses. Structures determined to be eligible for adaptive reuse by the DRB may be used for one or more of the uses listed below in any Zoning District.

- 1) Any use allowed within the district in which the structure is located
- 2) Accessory dwelling
- 3) Bed and Breakfast
- 4) Community Center
- 5) Educational Facility
- 6) Farmers Market
- 7) Recreation, Indoor
- 8) Industry, Light (limited to specialty food, wood, or art products where Light Industry is not normally allowed in Zoning District)
- 9) Restaurant or Drinking Establishment
- 10) Storage Facility (enclosed within the structure)

D) Review Process and Standards. Conditional Use Approval is required for all adaptive reuse proposals regardless of the uses involved. Site Plan Approval is required if any of the involved uses requires Site Plan Approval.

E) Review Standards. In addition to the Conditional Use standards in [Section 3.1](#) and the Site Plan Standards that may apply in [Section 3.2](#), the following standards shall apply to adaptive reuses.

- 1) Any rehabilitation or restoration associated with an adaptive reuse shall not significantly alter the façade or historic character of the structure. Any proposed exterior renovations shall conform to the guidelines set forth in the most recent edition of *The U.S Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*.
- 2) The DRB conditional use decision shall clearly state that the adaptive reuse is allowed only within the existing structure and shall not be re-established if the structure is modified or destroyed and rebuilt, except in conformance with E(1) above. All applicable permits under these Regulations shall apply prior to reestablishing an adaptive reuse.

SECTION 6.3 GAS/SERVICE STATIONS AND OTHER MOTOR VEHICLE RELATED USES

In all districts where they are allowed (see Table 2.2), gas/service stations, motor vehicle repair and/or service, and motor vehicle sales shall comply with the following as applicable:

- 1) A new gas/service station shall not be located within three hundred (300.0) feet of any lot occupied by a school, hospital, library, or religious institution. (This standard does not apply to motor vehicle repair and/or service and motor vehicle sales uses).
- 2) All automotive parts and dismantled vehicles are to be stored within a building or be effectively screened from adjacent properties and roads. No major repair work is to be performed outside a building.
- 3) A landscaped area shall be maintained at least five (5.0) feet in depth along all lot frontage not used as a driveway; specific landscaping and screening may be required (see [Section 7.3](#)). To ensure conformance with the Conditional Use and Site Plan Standards in [Article 3](#), the DRB may require a larger landscaped area.

SECTION 6.4 EARTH RESOURCE EXTRACTION

- A) Earth resource extraction includes the commercial extraction of minerals, including solids such as sand and gravel, liquids such as water, and gases such as natural gas. It may also include preparation activities such as crushing and washing customarily part of earth resource extraction activities. Earth Resource Extraction requires Conditional Use and Site Plan Approval in the Rural District and is prohibited in all other districts.
- 1) **Specific Exceptions.** This Section shall not apply to the removal of natural resources from a farm operation, nursery, or cemetery to the extent that such removal is necessary to the operation of the same.
- B) **Application Requirements.** In addition to Conditional Use and Site Plan application requirements, earth resource extraction proposals shall be prepared by a Vermont Licensed Engineer and include:
- the depth of excavation
 - existing grade and proposed grade created by removal or addition of material
 - proximity to roads and adjacent properties
 - the average amount of earth resource to be extracted on a monthly or annual basis
 - the hours of operation and seasons of use
 - the expected duration of operation
 - the number of truck trips per day traveling to/from the extraction site
 - an erosion and sediment control plan to be following while the extraction operation is active
 - a reclamation plan that addresses grading, seeding, mulching, planting, fencing, drainage, and other measures
- C) **Review Standards.** The DRB shall find that the plan does not cause any undue adverse effect to health or property based on the Conditional Use Review standards, the Site Plan Review standards, and the following additional standards.
- 1) The operation shall not have an adverse effect upon the use of adjacent property or town roads due to noise, dust, or vibration.
 - a) Within the required setback areas, the natural vegetation shall be retained, and supplementary planting or other screening may be required in order to buffer

- impacts from the operation.
- b) No power-activated sorting or crushing machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust control devices.
- 2) The operation shall not create traffic hazards or excessive congestion or physical damage to public highways and expected routes of truck traffic.
 - 3) All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property.
 - 4) Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.
 - 5) Explosives may be used only per a plan approved by the DRB.
 - 6) The operation shall reclaim the site by removing all debris, leveling all cut slopes and soil banks and grading to an even low angle, and establishing a firm cover of grass or other vegetation sufficient to prevent erosion.

SECTION 6.5 HOME BUSINESS, HOME OCCUPATIONS, AND HOME INDUSTRY

A) Home Business. A Home Business shall not require a Zoning Permit in any district. A Home Businesses shall be considered to be part of a residential use, not a commercial use, for the purpose of land use and permitting requirements (see [Table 2.2](#)). A Home Business is a use of an accessory building or minor portion of a dwelling for a business that exhibits no external indications that a business exists. Home Businesses must meet all of the following standards:

- 1) There are not employees or helpers other than members of the household.
- 2) The Home Business is not visible from outside the home.
- 3) The Home Business does not generate significant additional traffic.
- 4) The Home Business has no impact on the character of the neighborhood.
- 5) The Home Business has no signs.
- 6) The Home Business has no external storage of materials or equipment.
- 7) The Home Business produces no objectionable noise, smoke, vibration, dust or odors discernable on any adjoining property.

B) Home Occupation. A Home Occupation requires a Zoning Permit. A Home Occupation shall be considered to be part of a residential use, not a commercial use, for the purpose of land use and permitting requirements (see [Table 2.2](#)). No provision of these Regulations shall infringe upon the right of any resident to use a minor part of the residence or use an accessory structure for an occupation which is customary in residential areas and which does not change the character of the residential area providing all of the following standards are met:

- 1) The Home Occupation shall be carried on by members of the household living on the premises plus no more than one full time equivalent employee who is not a member of the residential household.
- 2) The Home Occupation shall occupy a minor portion of the dwelling or an accessory structure.
- 3) There shall be no exterior displays, except that one unlit sign not exceeding four square feet per side is allowed.
- 4) No traffic shall be generated in a volume that alters the essential character of the neighborhood or substantially impairs the use of adjacent property.
- 5) Excessive noise, smoke, vibration, dust, glare, odors, electrical interference, or heat that is detectable at the boundaries of the property shall not be generated.
- 6) Parking shall be provided off-street, outside of setback areas.
- 7) Exterior storage of materials used in the home occupation shall be minimal, not visible from the street, road, or adjacent properties, and shall not be allowed in setback areas.
- 8) There shall be no potential risk to public health from the Home Occupation such as toxic emissions or on-site disposal of hazardous wastes.
- 9) There shall not be more than an estimated average of 10.0 vehicles per day associated with the activities of the Home Occupation.

C) Home Industry. A home occupation not meeting all of the Home Occupation standards listed above may qualify as a Home Industry, which requires Conditional Use Review and Site Plan Review in all districts where allowed. A Home Industry shall be considered to be part of a residential use, not a commercial use, for the purpose of land use and permitting requirements (see [Table 2.2](#)). The DRB shall review applications for Home Industries for conformance with [Section 3.1](#) and the following standards:

- 1) The Home Industry shall be carried on by members of the household living on the

premises plus no more than three full time equivalent employees who are not members of the residential household.

- 2) Home Industries are allowed permanent business signs permitted according to [Section 5.8](#) of these Regulations.
- 3) No traffic shall be generated in a volume that alters the essential character of the neighborhood, or substantially impairs the use of adjacent property.
- 4) Excessive noise, smoke, vibration, dust, glare, odors, electrical interference or heat that is detectable at the boundaries of the property shall not be generated.
- 5) Parking shall be provided off-street, outside of setback areas.
- 6) No exterior storage of materials shall be allowed in the setback areas. Exterior storage areas shall be screened by landscaping or other appropriate methods (See [Section 7.3](#)).
- 7) There shall be no potential risk to public health from the Home Industry, such as toxic emissions or on-site disposal of hazardous wastes.

SECTION 6.6 LIMITATION ON REGULATION OF PUBLIC FACILITIES

- A) In accordance with the Act (Section 4413), the following public facilities may be regulated, subject to Site Plan Review and Conditional Use Review only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off street parking and loading, traffic, noise, lighting, and landscaping or screening requirements, and only to the extent that the regulations do not interfere with the intended functional use:
- 1) State or community owned and operated institutions and facilities;
 - 2) Public and private schools and other educational institutions certified by the Vermont Department of Education;
 - 3) Churches and other places of worship (see definitions), convents, and parish houses;
 - 4) Public and private hospitals;
 - 5) Regional solid waste facilities certified by the State (10 V.S.A. chapter 159); and
 - 6) Hazardous waste management facilities for which a notice of intent to construct has been received under state law (10 V.S.A. 6606a).

SECTION 6.7 MIXED USES

- A) **Applicability and Standards.** In the Growth Center and Mixed Use District, the DRB may approve a mixed use development that consists of more than one principal use per lot in accordance with the following standards:
- 1) There shall not be more than two principle structures on a lot unless approved as part of a PUD. More than one principal use may occupy a single principal structure.
 - 2) The DRB shall specify the maximum number of uses approved for a particular lot.

- 3) Each use that is part of a mixed use must be allowed (See [Section 2.2](#)).
 - 4) Mixed uses shall be arranged to be compatible, and to minimize visual and noise impact for the residents of the development and adjacent properties. To achieve this, the DRB shall require landscaping, screening, and/or setbacks as appropriate.
- B) **Review Process.** A mixed use requires conditional use and may also require site plan approval from the DRB. Review shall be coordinated with other reviews according to [Section 8.4\(B\)](#) and the following standards:
- 1) Uses that require conditional use approval shall be coordinated in one written conditional use decision for the mixed use.
 - 2) Uses that require site plan approval shall be coordinated in one written site plan decision for the mixed use.
 - 3) Once conditional use and site plan approval for a mixed use is granted, permitted uses may be approved by the Zoning Administrator in accordance with these Regulations.
 - 4) Each use that is part of a mixed use shall require an individual Zoning Permit.

SECTION 6.8 SMALL OFF-GRID WIND ENERGY SYSTEMS

- A) **Purpose and Applicability.** The purpose of this Section is to promote the safe, effective and efficient use of small off-grid wind energy systems which are not regulated by the Vermont Public Service Board. Small wind energy systems are a permitted use in all Zoning Districts; subject to certain requirements as set forth below.
- B) **Application Requirements.** Small off-grid wind energy systems require a Zoning Permit Application Form, which shall include standard drawings of the wind turbine structure, including the tower, base, and footings. In addition, an engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a Vermont Licensed Engineer shall also be submitted. This analysis is frequently supplied by the manufacturer.
- C) **Review Standards.** The Zoning Administrator shall find that proposed small off-grid wind energy systems comply with the following standards before issuing a Zoning Permit:
- 1) **Tower Height:** For property sizes between ½ acre and one acre the tower height shall be limited to 80.0 ft. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA Regulations.
 - 2) **Setback:** The tower base shall be setback a distance no less than the tower height (including blade, rotor, or other vertical elements), which shall create a fall zone entirely on the landowners property. Guy wire anchors and other accessory elements may extend to the setback for the Zoning District in which it is located.
 - 3) **Noise:** Small off-grid wind energy systems shall not exceed 60.0 dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.

- 4) **Compliance with State and Federal Codes and Regulations:** Small off-grid wind energy systems must comply with all required state and federal codes and regulations, including the FAA Regulations and the National Electrical Code. The manufacturer frequently supplies this information.

SECTION 6.9 WIRELESS TELECOMMUNICATION FACILITIES

New or expanded wireless telecommunications facilities that are not subject to 30 V.S.A. Section 248, including but not limited to towers and accessory structures, are subject to Conditional Use Review and the provisions of this Section. In conformance with 24 V.S.A. § 4412(9), the DRB may permit new or expanded telecommunications facilities if the DRB finds that the facility will impose not more than a de minimus impact on the conditional use standards in [Section 3.1](#) and the criteria in (F) below.

A) The following requires a Certificate of Public Good from the Department of Public Service under 30 V.S.A. Section 248, which preempts these Regulations:

- 1) Placement of wireless telecommunications facilities on electric transmission or generation facilities; and
- 2) Single application to construct or install 3 or more telecommunications facilities, each at least 50.0 feet above ground level, within 3 years as part of a network.

B) No Zoning permit shall be required for the following:

- 1) Antennae with an aggregate area of not more than eight (8.0) square feet on the largest face and which are on masts that extend not more than twelve feet above the specific roof area to which they are attached and are not located on historic landmarks and structures.
- 2) Antenna structures less than twenty (20.0) feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.
- 3) Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100.0 feet in height.

C) Amateur radio, citizens band radio, AM or FM radio, or broadcast television service towers that exceed the requirements in (B) above but do not exceed 100.0 feet in height are exempt from the provisions of this Section, but require a Zoning Permit as an accessory structure.

D) Supplemental Application Requirements. In addition to the application requirements required for Conditional Use Review a wireless telecommunication facility permit application shall also include:

- 1) A location map showing the general area within a 2.0 mile radius of the facility.
- 2) A vicinity map showing the entire vicinity within a 2,500.0 foot radius of the facility, including the location of all existing and proposed towers, topography, public and private roads and driveways, buildings, structures, utilities, water bodies, wetlands, 50.0 foot contour lines, landscape features, historic sites, and significant wildlife habitats. It shall indicate the property lines of the proposed facility site parcel and all easements or rights-of-way needed for access from a public way to the facility.
- 3) Elevations and proposed site plans of the facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans except the vicinity map shall be drawn at a minimum scale of 1.0 inch = 50.0 feet.)
- 4) In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50.0 feet of any tower base.
- 5) A report from a qualified Vermont Licensed Engineer that:
 - a) Describes any tower's design and elevation.
 - b) Documents the elevation above grade for all proposed mounting positions for antennas to be mounted on a tower and the minimum distances between antennas.
 - c) Describes a tower's capacity, including the number, elevation, and types of antennas that the tower is proposed to accommodate.
 - d) In the case of new facilities, demonstrates that existing towers and structures within five miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
 - e) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
 - f) Describes the output frequency, number of channels, and the power output per channel for each antenna. As an alternative, a coverage map may be provided.
 - g) Demonstrates the facility's compliance with the standards set forth in these Regulations or other applicable standards.
 - h) Provides proof that at the proposed facility site the applicant will be in compliance with all FCC Regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC Regulations, standards and requirements for radio frequency radiation (RFR).
 - i) Includes such other information as determined by the DRB to evaluate the application.
- 6) A letter of intent committing the facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC Regulations, standards and requirements and the provisions of these Development Regulations and all other applicable laws.

- 7) In the case of an application for additional antennas or other equipment to be installed on an existing facility, a copy of the executed contract with the owner of the existing structure.
- 8) To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the facility, or a written statement by the applicant that an EA is not required for the facility.

E) Construction Standards. Telecommunications facilities shall conform to the following construction standards:

- 1) The facility will not be built on speculation. If the applicant is not a telecommunication service provider, the applicant shall provide a copy of a contract or letter of intent showing that a telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.
- 2) The facility will not project more than 20.0 feet above the average elevation of the tree line measured within 100.0 feet of the highest vertical element of the wireless telecommunication facility, unless the proposed elevation is reasonably necessary to provide adequate telecommunication service capacity or coverage to Fairfax, or to accomplish co-location.
- 3) All telecommunication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding the above, in order to ensure public safety, the minimum distance of any wireless telecommunication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless telecommunication facility, a fall zone setback may not be required.
- 4) The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these Regulations.
- 5) The DRB may require the applicant to provide a bond, or other form of financial guarantee acceptable to the DRB, to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.
- 6) The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a wireless telecommunication facility shall, on a yearly basis, file a certificate to the Zoning Administrator showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility.

- 7) The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
- 8) The proposed equipment is installed on an existing wireless telecommunication facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.
- 9) The facility provides reasonable opportunity for the installation and operation of other telecommunications equipment (co-location).
- 10) Unless otherwise approved by the DRB, an abandoned or unused wireless telecommunication facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the DRB for an extension for removal. If the facility is not removed, or an extension granted, within 2 years of abandonment or cessation of use, the DRB may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.
- 11) Unused portions of a wireless telecommunication facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit.

F) Additional Conditional Use Criteria. In addition to the Conditional Use Standards in [Section 3.1](#) and the construction standards in (E) above, the DRB shall approve an application for a wireless telecommunications facility when it finds that the application does not impose more than a de minimus impact on the following criteria:

- 1) The facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- 2) The facility will not have an undue adverse aesthetic impact. In determining this, the DRB shall consider the following factors:
 - a) The results of a balloon test, if conducted.
 - b) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
 - c) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
 - d) The duration and frequency with which the facility will be viewed from a public road or from public property.
 - e) The degree to which the facility will be screened by existing vegetation, topography, or existing structures.
 - f) Background features in the line of sight to the facility that obscure or make the facility more conspicuous.
 - g) The distance of the facility from the point of view and the proportion of the facility that is above the skyline.

- i) The sensitivity or unique value of a particular view affected by the facility.
 - ii) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
- 3) The facility will not generate undue noise.

Article 7. Planning and Design Standards

A) Applicability. The Planning and Design Standards in this Article are intended for use by the DRB during the evaluation of applications for Conditional Use, Site Plan or Subdivision approval.

These Planning and Design Standards shall not apply to lots, or uses, having prior DRB approval, unless the proposed use is different than that which the DRB approved. In that case the new use shall require DRB approval under these regulations, in which case the Planning and Design Standards of this Article shall apply. All lots having prior DRB approval shall be presumed to be for Single-Household Homes, unless approved for other uses by the DRB.

Lots created prior to the requirement for DRB approval (hereinafter called pre-existing lots) shall be presumed to have Town permission for a Single-Household dwelling, Two-Household Dwelling, or Accessory Structure only (still needing a Building Permit, assuming that the structure meets the Dimensional Standards in Article 2, [Section 2.3](#)). Any other proposed use of a pre-existing lot shall require DRB approval, and be governed by the Planning and Design Standards in this Article.

The Zoning Administrator shall require application of the [Driveway Standards](#) in Sections 7.6.C and 7.6.E.1 when a new driveway is proposed for a pre-existing lot. If the proposed use for a driveway on a pre-existing lot exceeds two principal uses or dwelling units then DRB approval shall be required. If a new driveway is proposed for a lot previously approved by the DRB, it shall require DRB approval (See Article 4, [Section 4.4.B](#) for further guidance).

In no other instance shall the Zoning Administrator apply the Planning and Design Standards in this Article without prior DRB approval. This restriction of the Zoning Administrator's authority to apply these Planning and Design Standards does not affect the Zoning Administrator's authority to enforce the application of these Planning and Design Standards in cases of violation.

B) Application of Standards. In applying these standards the DRB may:

- 1) Establish design, phasing and/or permit conditions to avoid or mitigate any adverse impacts and to ensure conformance with these standards.
- 2) May require a certificate from a Vermont Licensed Engineer as to the satisfactory completion of any required improvements and/or a performance bond or equivalent surety to secure completion of such improvements and their maintenance. An engineering certificate is required to certify satisfactory completion of all private roads according to [Section 7.6\(K\)](#). The DRB shall determine the amount and terms of performance bonds, but in no case shall the terms run longer than three years. Performance bonds shall be accompanied with a certificate from the Select Board that it

is satisfied either with a bonding or surety company, or with security furnished by the Subdivider.

SECTION 7.1 ENERGY EFFICIENT DESIGN

A) Developments are encouraged to incorporate energy-efficient siting of buildings, such as:

- 1) Orienting buildings on the site to optimize passive solar heating and cooling opportunities.
- 2) Orienting buildings so as to minimize wind loads on the structure.
- 3) Placing and appropriately shading windows to maximize solar penetration during the winter months and minimize solar penetration during the summer months.
- 4) Designing landscaping to provide shading and cooling during the summer months while minimizing reduction of solar heat penetration during the winter months.
- 5) Using the least amount of area for roadways and the least length of sewer, water and utility lines within environmentally and economically sound limits.

SECTION 7.2 FARM AND FORESTLAND PRESERVATION

Within the Rural and Conservation District, subdivision boundaries, lot layout, and building envelopes shall be located and configured to minimize or avoid adverse impacts to primary agricultural soils, productive farmland and forestland, and large tracts of forestland (>50.0 acres regardless of ownership). Methods for avoiding adverse impacts include, but may not be limited to, clustering development, locating building envelopes at field, orchard, or forest edges and/or on the least fertile/productive soils; designating vegetated buffer areas between agricultural and other proposed uses to minimize land use conflicts; designing access roads, driveways, and utility corridors to follow existing linear features; and sharing access to the extent feasible.

SECTION 7.3 LANDSCAPING AND SCREENING

- 1) **Landscape Improvements.** The DRB shall require landscaping to interrupt the scale and bulk of large facades, to integrate the building site with the surrounding landscape, and/or to enhance the quality of the environment, both visually and physically.
 - 1) Landscaping shall be integrated throughout the site, including front and side yards, within and around parking areas, sidewalks/walkways, and public spaces.
 - 2) Existing trees, shrubs, and other vegetation shall be preserved on the site to the extent practicable.
 - 3) New landscaping shall include a variety of plantings and features as appropriate, such as deciduous or coniferous shade giving trees; complementary flowering, ornamental or other small trees; landscaping beds, hedges or shrubs that define buildings, planting

strips, lawns or buffer areas; and grasses/groundcover.

- 4) Street trees are required along roads in the Growth Center and Mixed Use Districts unless waived by the DRB for topographical or physical limitations.
- 5) Landscaping shall be installed within a time frame established by the DRB.

2) **Screening.** The DRB shall require screening according to the following standards.

- 1) In the Growth Center and Mixed Use District, screening shall obscure commercial and industrial properties from abutting residential properties.
- 2) Outside the Growth Center and Mixed Use District, screening shall obscure commercial and industrial properties from residential properties and public roads in the immediate neighborhood.
- 3) Parking areas for uses other than single and two-household dwellings shall be obscured from adjacent uses.
- 4) For the purpose of these Regulations, to “obscure” shall be interpreted to mean: to make more difficult to see. The extent of the screening required shall be determined on a case by case basis by the DRB, in keeping with the Town Plan’s stated policy to “maintain the historic, cultural, and scenic sense of place in the Village” and the overall goal of protecting and preserving the “cultural and scenic resources which help define the Town’s rural character, natural environment, and traditional working landscape.” The extent of the screening required may vary from virtually unobscured to almost fully obscured, as deemed appropriate by the DRB.
- 5) The amount and type of screening shall be sufficient to fulfill its intended function based on the following standards in order of priority:
 - i) Natural terrain and topography shall serve as screening wherever feasible;
 - ii) Existing trees, shrubs, evergreens and other vegetation shall be preserved and used as a method for screening wherever feasible; and
 - iii) Where natural terrain and existing vegetation does not provide sufficient screening, new plantings and other landscaping materials such as berms, fences, and stone walls, shall be installed for the purpose of screening.
- 6) Screening shall be installed within a time frame established by the DRB.

Text Box 7.1

Landscaping is the enhancement of an expanse of natural land, which may take the form of lawns, trees, plants, and other natural materials such as rock, wood chips, and decorative features.

Screening Obscures one abutting or nearby structure or use from another or from a road. It may take the form of natural terrain, landscaping, or other site modifications such as berms, fences, and stone walls.

3) **Planting Specifications.**

- 1) New plantings and other landscaping materials shall be selected to meet seasonal conditions, soil conditions, erosion control, and light on the site.
- 2) Plant selections shall be non-invasive and rated for an appropriate plant hardiness zone. Vermont native species are preferred.

SECTION 7.4 OUTDOOR LIGHTING

- A) The DRB shall require outdoor lighting where necessary to illuminate areas such as streets, sidewalks, and parking areas. Outdoor lighting fixtures must be designed to shield the light source and adjusted so as not to cast light directly on adjacent roadways or properties. High Pressure Sodium lamps are not allowed unless used as a minor addition to an existing lighting scheme.
- B) The DRB shall prohibit fixtures that cause excessive glare within the property or on adjoining properties. They may limit or adjust the number, intensity, and location of fixtures to provide for even treatment of lighting, reduce impacts on the night sky, and to ensure limited impact on surrounding properties.

SECTION 7.5 PEDESTRIAN ACCESSIBILITY

- A) **Adequacy of pedestrian circulation.** All developments in Fairfax shall contain provision for pedestrian circulation that is adequate in terms of safety, convenience, access to points of destination, attractiveness, and connections with pedestrian ways on adjoining properties in accordance with the provisions below.
 - 1) For site plan review and conditional use applications in the Growth Center and Mixed Use Districts, the DRB shall require sidewalks along the road frontage and designated pedestrian pathways to the entrance of the building to facilitate pedestrian access to the site and between the site and nearby services, facilities and neighborhoods.
 - 2) For subdivisions and PUDs, projects will provide adequate pedestrian circulation within the project, such as sidewalks and pathways along public and private streets, connecting the project to public buildings and uses, to other commercial or industrial uses, and to nearby residential and recreation areas.
 - 3) Curbs may be required in conjunction with sidewalks.
- B) **Sidewalk Construction and Design Standards:**
 - 1) Walking surfaces shall be asphalt or concrete.
 - 2) The running slope of walking surfaces shall not be steeper than 1:20. The cross slope of walking surfaces shall not be steeper than 1:48. Exceptions may be allowed by the DRB where deemed necessary due to topography.
 - 3) The clear width of paved walking surfaces shall be 36 inches (915 mm) minimum. Walking surfaces with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.
 - 4) Base material, surface crowning, surface drainage, embankments, ditching, culverts, and erosion control shall be as deemed by the DRB to be adequate for maintaining the sidewalk in good condition. These specifications may be as rigorous as, but not to exceed, those for Road Construction and Design. (See [Section 7.6.](#))

SECTION 7.6 ROAD AND DRIVEWAY STANDARDS

- A) **Applicability.** The following standards shall apply to all roads and driveways.

- 1) **Driveways (private).** All accesses serving 1 or 2 lots, principal uses, or dwelling units shall be considered driveways. The interest of the owner of each lot, principal use or dwelling unit served by a common or shared driveway shall be protected by an easement recorded in the deed of each lot involved.
- 2) **Roads (public or private).** All accesses serving three (3) or more lots, principal uses, or dwelling units shall be considered roads. All roads shall be private unless otherwise accepted as public roads by the Select Board. The interest of the owner of each lot, unit, or use served by a private road shall be protected by an easement recorded in the deed of each lot involved.

B) Road Construction and Design Standards. All roads shall be designed by a Vermont Licensed Engineer using the Vermont Agency of Transportation A76 and B71 standards and specifications as a minimum. Roads shall also comply with the specific requirements of the Town of Fairfax Statement of Procedures and Standards Regarding Town Highways (Statement on Town Highways), as most recently amended. A summary of the Statement on Town Highways is included this Section and Table 7.6(a). If the information in this Section differs from the Statement on Town Highways, the Statement on Town Highways shall govern.

Table 7.6(a) Road Design Standards from the Town of Fairfax Statement of Procedures and Standards Regarding Town Highways	
Width (ROW, Traveled Way, Shoulder)	
Minimum ROW Width	50.0 Feet
Traveled Way Width	24.0 Feet
Shoulder Width Per Side	2.0 Feet (4.0 Feet With Guardrail)
Surface	
Surface Traveled Way	Paved or Gravel (See 7.6(B)(2))
Surface Shoulder	Same as road surface
Base	
Road Sub-Base, Sand, Cushion, and Sub Grade	Per A-76 Standard
Grade and Curve Radii	
Minimum Grade	1.0%
Maximum Grade (Not Paved)	10.0%
Maximum Grade (Paved)	12.0%
Maximum Grade Within 50.0 Feet of Intersection	4.0%
Minimum Curve Radii	100.0 Feet (Measured at Centerline)
Crown	
Crown From Centerline to Edge of Shoulder	0.25 (1/4) Inch Per Foot
Crown From Edge of Traveled Way to Edge of Shoulder	0.625 (5/8) Inch Per Foot
Drainage Ditches and Embankments	
Embankments	≤ 1.0 vertical to 1.5 horizontal (15.0% grade)
Placement of Drainage Ditches	6.0 Inches Below Gravel Sub-Base or 18 Inches Below Finished Grade
Ditch Lining	≤ 5.0% Grade - Grass Lined > 5.0% Grade - Stone or Asphalt Lined

Culverts	
Minimum Culvert Size	18.0 Inches Diameter
Culvert Spacing	Maximum of 300.0 Feet in Continuous Ditch Line
Culvert Placement	Extend Minimum of 1.0 Foot Beyond Fill
Culvert Fill	Minimum 2.0 Feet of Packed Cover
Headers At Culvert Inlets	Material - Reinforced Concrete 8.0 Inches Thick OR Large Flat Rock Tightly Placed OR Large Cemented Rock Location - Inside Edge Minimum of 8.0 Feet From Outside Edge of Shoulder
Culvert Marker Posts	4.0 to 6.0 Inches in Diameter at Both Ends
Intersections	
Minimum Distance Between Intersections	150.0 Feet
Intersection Angle	90.0 Degrees Preferred, Minimum 60.0 Degrees

1) Road Surface Drainage, Embankments, and Erosion Control.

- a) Surface Drainage.** The surface drainage system is composed of road crown, shoulders, ditches and culverts, which shall be constructed as specified in Table 7.6 (a) and the Statement on Town Highways.

Based on the professional judgment of a Vermont Licensed Engineer, drainage ditches shall be provided where necessary. They shall be constructed to prevent infiltration of water into the gravel and sub-base and to conduct storm drainage to waterways and absorption areas. They shall be shaped to prevent excessive erosion on both shoulder and right-of-way bank sides of the ditch cross section.

Culverts shall be installed in all low spots and be of a sufficient size to handle the anticipated run-off (minimum 18 inch diameter). Culverts shall be installed during the construction of the road and prior to sub-base and surface preparation and placement.

Under no circumstances shall a road be permitted which will result in drainage or direct water flow onto an existing Town Highway.

- b) Embankments.** Slopes and banks shall not be steeper than 1.0 vertical to 1.5 horizontal or 15% grade. Soil stability of banks shall be a consideration in the grade of slopes and banks. For high embankments, runoff from the road should be carried to selected points and discharged down the embankment by a lined ditch or pipe. After construction and final grading, slopes and banks shall be seeded and mulched to prevent erosion.
- c) Erosion Control.** The applicant shall ensure the stability of wet areas, soils and banks adjacent to the proposed road. The DRB may require additional gravel plus a sand cushion or fabric and underdrain to ensure the stability of the road. Erosion control methods from the Vermont Better Backroads Manual are encouraged.

2) Road Surface. The DRB shall determine whether the roadway is to be paved. In making such determination, the DRB shall consider the following:

- a) Proposed Use.** Arterial and collector roads are defined as roads that will normally and customarily be used as a course of travel to destinations other than the properties fronting upon said roads. An arterial or collector type of proposed use will normally require pavement. A non-arterial or non-collector type of proposed road is used only for ingress and egress to the properties fronting on or connected to said road will not normally require pavement.
- b) Density.** Where there is less than 1 unit per 2 acres fronting on or connected to the proposed road the DRB may waive the paving requirement.
- c) Character of the Affected Neighborhood.** The DRB will be guided by the prevailing characteristics of the surrounding area as well as the proposed development in deciding whether to require pavement of a proposed road.
- d) Safety Considerations.** The DRB shall consider the terrain, course, hazards and suitability of the proposed road. Safety to the traveling public and inhabitants along the road is the paramount concern in deciding whether to require pavement and the extent and form of pavement to require.
- e) Future Uses.** Future foreseeable connections or intensification of use of a proposed road shall be considered in determining whether and when to require pavement and what form or locations of pavement or finishing to require.
- f) Paving Required.** If the DRB determines that the public good and necessity requires the proposed roadway to be paved, it shall so specify in its decision. Such decision shall require that paving occur within one year after construction of the road and after one winter season has passed, unless the DRB has determined that a different paving schedule is appropriate. Such decision shall require that the roadway be paved with hot bituminous concrete mix meeting all Vermont State Highway specifications for hot asphalt bituminous concrete mix. The bituminous concrete is to be laid and rolled by experienced crews in two layers. The first, the binder course, to a depth compacted to 2 inches and the second application compacted to a depth of 1 inch of hot bituminous concrete, surface mix. All work shall be done in a professional manner.

C) Driveway Construction Standards. Driveways shall be constructed using the Vermont B-71 Standards for Residential and Commercial Drives as a minimum. In addition driveways shall comply with the standards in Table 7.6(b) below.

Table 7.6(b) Supplemental Driveway Specifications	
Minimum Traveled Way Width	16.0 Feet
Shoulder Width Per Side	2.0 Feet

Turnaround Required for Driveways Greater than 400 Feet Long	The turnaround shall be located no further than 200 feet and no closer than 50 feet from the residence on driveways greater than 400 feet long. See Figure 7.6 for turnaround specifications. For shared driveways, two turnarounds may be required based on the location of the units. A permanent metal sign saying "No Parking" shall be posted at every required turnaround.
Passing Lane Required Every 800 Feet	A passing lane every 800 feet (or less), which has a travel portion at least 50 feet long and at least 24 feet wide plus a 2 foot shoulder on each side is required. A permanent metal sign saying "No Parking" is required in every Passing Lane.

D) Obstruction of Vision at Intersections. The corner of any lot at the intersection of two roads (either public or private) shall be cleared between a height of three feet and ten feet so as not to obstruct vision around the corner. The cleared area shall be a triangle with two sides extending along the roads to points 25 feet from the corner and the third side being a line connecting the two points.

E) Road/Driveway Location, Layout and Connectivity.

- 1) Location (Driveways).** Except in the Growth Center District and Mixed Use District all driveways are to be located at least one hundred (100) feet from an intersection, for all uses except one and two-household residential uses. The center of the traveled portion of any driveway will be no less than fifteen (15) feet from a boundary line unless shared by two abutting property owners. The installation of culverts shall be the responsibility of the property owner, subject to the prior written approval of the Select Board. A driveway permit is required as described in [Section 2.2\(D\)](#).
- 2) Location (Roads).** Except in the Growth Center and Mixed Use Districts the traveled center of the road serving three or more living units or uses will be no less than fifty (50) feet from the boundary line unless shared by two abutting property owners. In the Growth Center and Mixed Use Districts the traveled center of the road serving three or more living units or uses will be no less than thirty five (35) feet from the boundary line unless shared by two abutting property owners.
- 3) Layout.** Roads and driveways shall be related to topography so as to produce usable lots, safe grades, and intersections in appropriate relation to the proposed use of the land served by the roads.
- 4) Connectivity.** A network of roads provides for the efficient provision of fire protection, movement of traffic, and construction or extension of utilities and public services and for this reason, dead end roads are discouraged. To insure adequate access and connectivity, the DRB may require the continuation of existing or proposed streets from or to adjacent properties. Where adjacent properties are not fully developed, the DRB shall require that traveled ways and/or rights-of-way be extended to property lines. The DRB may waive this requirement if topographic or other conditions make such continuance undesirable or impracticable.

F) Access Management Standards.

- a) The DRB may require measures such as speed change lanes, turning lanes, right turn only egress or other design elements necessary to provide for safe circulation on the site and adjoining roads. The DRB may require additional improvements and configuration to improve and facilitate pedestrian access and safety.
- b) The DRB may limit access to the property to a side street or secondary road, or previously approved access on the subject property or adjoining properties. Where traffic access is required to only a portion of the land, sharing that access with future uses for the remainder of the parcel may be required.
- c) The DRB may require a common access point to serve multiple properties under single or different ownership in order to limit the number of curb cuts onto major roads and state highways. This condition may be modified where in the opinion of the DRB, topographic or other conditions make such shared access undesirable or impracticable.

G) Required Road/Driveway Improvements/Upgrade.

1) Improvement/Upgrade. Applicants may be required to make improvements to existing roads or driveways according to the following standards:

- a) A development that proposes to add a second lot, principal use, or dwelling unit to an existing driveway shall be required to upgrade the driveway to driveway construction standards according to Section 7.6(C).
- b) A development that proposes to add the 3rd lot, principal use, or dwelling unit to an existing driveway shall be required to upgrade the driveway to road construction standards according to Section 7.6(B).
- c) A development proposing to add any lot, principal use, or dwelling unit to an existing non-complying private road or driveway shall be required to upgrade the road or driveway to comply with the Statement on Town Highways and this Section.
- d) A development proposing to add any lot, unit, or use to a nonconforming public road shall not be responsible for road improvements unless required by the DRB according to (2) below. For Class 4 roads, the DRB may require a memorandum of understanding between the applicant and the Town regarding year-round maintenance of the road.

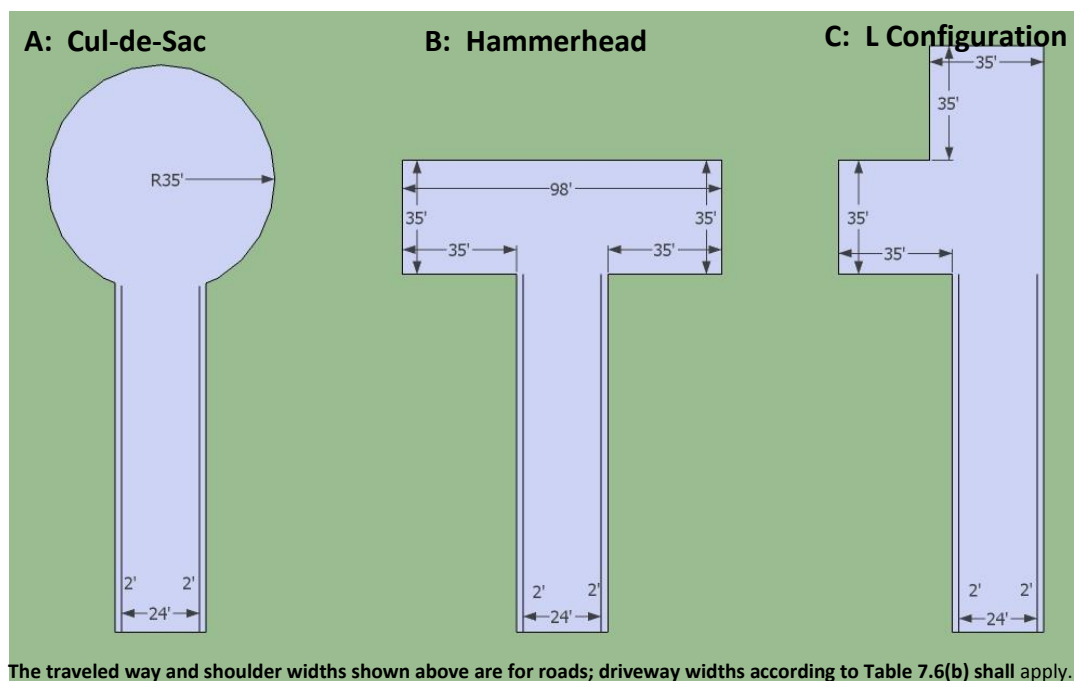
2) Traffic Impact Study. The DRB may require the provision of a traffic impact study to analyze the impact of the proposed development on street capacity and safety. A formal traffic impact study shall be required when the project involves twenty-five (25) parking spaces, the creation of twenty (20) dwelling units, or at the discretion of the DRB poses a substantial impact on the capacity and safety of local roads. The formal study shall include details of existing and proposed ingress and egress, traffic volumes, turning movements, levels of service, traffic control, and pedestrian access and safety. To maintain adequate road capacity and safety, the DRB may require improvements to roads in the vicinity of the development based on the results of the traffic impact study.

H) Turnarounds (Applying to all Roads and all Driveways Greater than 400 Feet). All dead end roads and all driveways greater than 400 Feet shall have a turnaround accessible by

emergency vehicles according to one of the three models shown in Figure 7.6 below. All turnarounds must contain permanent metal sign saying “No Parking.”

- I) **Road Name Signs.** All new roads are required to install a prominently displayed metal road name sign at each intersection with coloring, lettering, and placement in conformance with the 2009 Manual on Uniform Traffic Control Devices (MUTCD). All private road name signs shall be maintained at the owner’s expense.
- J) **Emergency/Service Accessibility.** All occupied structures must be safely accessible by emergency and service vehicles. *See also requirements in [Section 7.10](#) Management of Common Facilities and Land.*
- K) **Responsibility for Construction and Maintenance.** The applicant or current owner shall be responsible for construction and maintenance of all roads and driveways unless the Select Board approves the construction and accepts the road as a public road. *See also requirements in [Section 7.10](#) Management of Common Facilities and Land.*

Figure 7.6 Turnarounds



- L) **Certification of Road Standards.** A certificate from a Vermont Licensed Engineer is required for all new roads (private or to be conveyed to the Town), which shall certify that the road is constructed according to the road construction and design standards (Section 7.6(B)). For new driveways a certificate from either a Vermont Licensed Engineer or the driveway installer is required to certify that the driveway is constructed according to the driveway standards (Section 7.6(C)). In no case shall a Certificate of Occupancy be issued for a use accessed by an uncertified road or driveway. The Town shall not be responsible for the failure of any private road or driveway to meet or retain certified conditions.

The certificate shall include as built plans and detailed written data, including measurements and/or analysis as appropriate, to confirm compliance with each road and driveway construction and design standards (Sections 7.6(B) and (C)).

SECTION 7.7 SITE PRESERVATION AND EROSION CONTROL

A) Preservation of Existing Features.

- 1) Site amenities such as trees and tree lines, water courses or drainage ways, scenic roads, historic sites, unique geologic features, fences, stone walls, or any other features which the DRB feels are an asset to the site and/or community shall be preserved insofar as possible through harmonious design and appropriate construction methods.
- 2) Development near shorelines and stream banks shall maintain existing vegetation as much as possible.
- 3) Land shall be subdivided and developed to minimize grading, cut, and fill, and to the degree possible, to retain the natural contours. Wherever possible, natural cover shall be conserved to minimize stormwater runoff.

B) Wetlands, Streams, Springs, Swales, Drainage ways and Lowland Areas. Wetlands, streams, springs, swales, drainage ways and lowland areas warrant restrictive land use controls because of flooding hazards to human life and property, their ground water recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. Due to the extreme limitations of these features, subdivision boundaries, lot layouts, and building envelopes shall be located and configured to avoid any adverse impacts to them. Methods for avoiding such adverse impacts include, but may not be limited to, locating and sizing building envelopes to exclude these features, designating undisturbed buffer areas to protect the identified feature(s), and designing roads, driveways, and utilities to avoid and/or prevent the fragmentation of identified features.

C) Steep Slopes. Steeply sloping lands (25.0% and greater) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds, and public roads is detrimental to water quality and aquatic life, and a potential hazard to public safety. Steep slopes of 25.0% grade or greater are unsuitable for development of structures, roads, and public utilities. Subdivision boundaries, lot layouts, and building envelopes shall be located and configured to avoid any adverse impacts to steep slopes. Methods of avoiding such adverse impacts are the same as identified in (B) above.

D) Erosion and Sediment Control. All areas exposed during construction shall be protected in accordance with standards contained in the Low Risk Site Handbook for Erosion Prevention and Sediment Control published by the Vermont Department of Environmental Conservation, Agency of Natural Resources, including any updated versions of this publication. A State of Vermont Construction General Permit may be required.

SECTION 7.8 STORMWATER

- A)** Stormwater drainage, infiltration, retention and treatment facilities, including culverts and ditches, shall be designed to accommodate potential stormwater runoff from the entire upstream drainage area, based on conditions of total potential development, in accordance with the following standards:
- 1) The DRB will require the Subdivider to maintain post-development peak storm flows at predevelopment levels.
 - 2) All stormwater management facilities shall be designed in accordance with best management practices for stormwater management as most recently amended by the Vermont Agency of Natural Resources.
 - 3) The preparation and implementation of a stormwater management plan, prepared by a Vermont Licensed Engineer, may be required by the DRB.
 - 4) Off-site easements and/or management facilities may also be required by the DRB as needed to accommodate stormwater runoff on adjoining properties or downstream from the proposed development.

SECTION 7.9 UTILITIES, FIRE PONDS, AND DRY HYDRANTS

- A) Utilities.** All existing and proposed utility systems and easements throughout the development, including but not limited to electric, gas, telephone, and cable TV, shall be shown on the Final Plot Plan. The applicant shall provide evidence of coordination in the design with the utility companies to ensure adequate supplies and connections. Easements of sufficient width shall be provided so as to serve existing development, proposed development, and anticipated future development.
- 1) All electric, telephone and cable TV distribution systems within proposed subdivisions shall be placed underground where feasible as determined by the DRB subject to the provisions of 30 V.S.A. §2503 where a permit is required for underground placement in a public way by the Town of Fairfax Select Board.
 - 2) The developer shall coordinate designs with the appropriate utility companies to ensure adequate and suitable areas for underground installations.
 - 3) The developer shall be responsible for providing for water mains, manholes, sanitary sewers and catch basins if required. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 20 feet wide.
- B) Fire Ponds and Dry Hydrants.** Fire ponds or dry hydrants may be required for major subdivisions and other developments remote from existing water sources adequate for

firefighting. Fire ponds and dry hydrants shall be accessible for use in an emergency on other nearby properties. No fire ponds may be developed on lands designated as a wetland by the Vermont Significant Wetlands Inventory.

SECTION 7.10 MANAGEMENT OF COMMON FACILITIES AND LAND

Projects that include shared facilities or commonly owned land, including community wastewater and water supply systems, community facilities, parking areas, private roads, shared driveways, trails, utility rights of way, and open space, shall provide the Development Review Board with appropriate documentation for the adequate management and maintenance of such facilities or land. Ownership, management, and maintenance shall be clearly dictated in a covenant, easement, and/or other legal mechanism approved by the Development Review Board. Such legal documents required for private roads and shared driveways shall ensure they are accessible by emergency service vehicles at all times of the year. All legal documents relating to common facilities and land that are associated with a particular parcel shall be referenced in that parcel's deed and recorded in the Town of Fairfax Land Records.

Article 8. Administration and Enforcement

SECTION 8.1 ZONING ADMINISTRATOR, DRB, AND PLANNING COMMISSION

These Regulations shall be administered by a Zoning Administrator and a Development Review Board (DRB), whose appointment, removal, powers, and duties shall be as prescribed in the Act and this Section.

- A) The Zoning Administrator shall be nominated by the Planning Commission and appointed by the Select Board for a term of three years. The Zoning Administrator is charged with the responsibility of administering these Regulations and shall not permit any land development that is not in conformance with these Regulations. The Zoning Administrator shall be responsible for enforcement of any Zoning Permit and shall also be responsible for the enforcement of the conditions of project approval issued by the Fairfax DRB. Neither the Zoning Administrator nor the Town of Fairfax shall be responsible for enforcement of Permits issued by any other entity.
- B) The DRB shall be appointed by the Select Board. The DRB shall work as cooperatively with applicants as possible and shall have at least the following functions:
 - 1) Consider decisions of the Zoning Administrator on appeal.
 - 2) Consider and either grant or deny requests for Variances.
 - 3) Consider and either grant or deny applications for Conditional Use.
 - 4) Consider and either grant or deny approval for Site Plans.
 - 5) Consider and either grant or deny requests for PUDs.
 - 6) Consider and either grant or deny applications for Subdivisions.
 - 7) Consider and either grant or deny applications for access by right-of way to lots without frontage.
- C) The Planning Commission shall be appointed by the Select Board. The Planning Commission shall have the following functions:
 - 1) Prepare amendments to these Regulations and other regulations as permitted by 24 VSA Chapter 117.
 - 2) Prepare and update the Town Plan every five years and prepare amendments to the Plan as necessary.
 - 3) Undertake capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources and wetland protection.
 - 4) Assist in the preparation of a capital budget and program for a period of five years, for action by the legislative body.
 - 5) Perform such other acts or functions as it may deem necessary or appropriate to fulfill

the duties and obligations imposed by, and the intent and purposes of, the Act.

SECTION 8.2 FEES FOR ZONING PERMITS, PUBLIC HEARINGS, AND ADMINISTRATION

Upon submission of an application for a Zoning Permit or DRB approval, the subdivider shall pay application fee(s) as established by the Select Board. Such fee(s) shall include the costs of publication, public hearings, site visits, and for periodic inspections by town employees or consultants during the installation of public improvements. Fees will be collected by the office of the Zoning Administrator and must be paid for applications under these Regulations to be considered complete. Fees are non-refundable.

SECTION 8.3 ZONING PERMIT PUBLIC NOTICE AND ISSUANCE

- A) Within thirty (30) days of submission of a completed application, fee, and all other required information and approvals, the Zoning Administrator shall either issue or deny the Zoning Permit. The issuance of Zoning Permits is subject to the requirements of Sections 4449 and 4424 (D) of the Act. If the Zoning Permit is denied, the Zoning Administrator shall so notify the applicant in writing, stating the reasons for denial. If the Zoning Administrator fails to act within the 30-day period, a Zoning Permit may be deemed issued on the 31st day
- B) Zoning Permits are issued for a specific parcel of land, and are not transferable to any alternate parcel. Zoning permits run with the land and are not affected by property transfers.
- C) More than one pending application per parcel will not be allowed if the proposed developments are mutually exclusive. Applicants must withdraw any previous applications before submitting a new one if the approval and construction of the pending application may impact completion of the new application.
- D) Within three days following the issuance of a Zoning Permit, the Zoning Administrator shall deliver a copy to the Listers and post a copy of the Zoning Permit in the Town Clerk's office until the expiration of the appeal period or in the event that a notice of appeal has been filed, until final adjudication of that appeal. *The applicant must also post a Zoning Permit notice, in the form prescribed by the Town of Fairfax, within view of the public right-of-way most nearly adjacent to the subject property until the time for appeals has passed. The notice shall contain a statement of the appeal period and information as to where a full description of the project and approval can be found.***

SECTION 8.4 PUBLIC HEARING/PUBLIC NOTICE REQUIREMENTS FOR DRB APPROVALS

- A) In accordance with Section 4463(a) and 4464(a) of the Act, notice for a public hearing for any application requiring review and approval of the DRB (see [Article 3](#) and [4](#)) shall be given not less than 15 days prior to the date of the public hearing in the following ways:

- 1) Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the Town of Fairfax **and** posting of the same information in three or more public places within the Town in conformance with location requirements of 1 V.S.A. § 312(c) (2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.

All public notices will be created by the Town of Fairfax Zoning Office. Town personnel will be responsible for all public notice postings, except that ***the applicant shall be responsible for posting the notice within view of the public right of way nearest to the property for which the application is being made.***

- 2) Written notification to the applicant and to owners of all properties adjoining the property subject to development. Adjoining properties include those that are divided by a highway or other public right-of-way. In any situation in which a variance is sought regarding setbacks from a state highway, written notification is required to be submitted to the Secretary of Transportation. Written notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

Written notification to the applicant and abutters shall be completed by the Fairfax Zoning Office, but the applicant shall bear the cost of notification as determined from the current municipal grand list and will also bear the cost of posting notice within view from the public right-of-way.

- B) Coordinated Review.** In accordance with 24 V.S.A. Section 4462, in cases where a proposed project will require more than one type of development review, the DRB may warn and hold a combined hearing for the purpose of reviewing and acting on the proposal. The Zoning Administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate combined review. Notice for a combined review hearing shall be made in accordance with 24 V.S.A. Section 4464(a)(1). The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review processes that will be conducted at the hearing. As applicable, the combined review process shall be conducted in the following order:

- 1) Subdivision Approval (preliminary and final)
- 2) Planned Unit Development Approval
- 3) Site Plan and Conditional Use Review
- 4) Requests for Variances
- 5) Access by Right-of-Way

All hearing and decision requirements, and all deadlines applicable to each review process, shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated for consistency where appropriate.

SECTION 8.5 DECISIONS.

Any action or decision of the DRB shall be taken by the concurrence of a majority of the members of the DRB. In accordance with the Act (24 V.S.A. §4464(b)), the DRB shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective on the 46th day.

SECTION 8.6 APPEALS

All appeals shall be resolved according to 24 VSA Chapter 117, subchapter 11 of the Act, including filing of the notice of appeal requirements in Sections 4466 and 4471. The Zoning Administrator shall supply a list of interested persons (including the applicant, if not the appellant), to the appellant within five (5) days of notice of appeal.

SECTION 8.7 VIOLATIONS

- A) Violations of these Regulations shall be regulated as prescribed in Sections 4451, 4452 and 4470(b) of the Act.
- B) An action, injunction, or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of a Zoning Permit or DRB approval may be instituted within 15 years from the date the alleged violation first occurred and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

Article 9. Definitions

Except where specifically defined herein, all words used in these Regulations shall carry their customary meanings. The word "shall" is mandatory and the word "may" is permissive. Where doubt exists as to the precise meaning of any word or words in these Regulations, the DRB shall rule on the interpretation. Words in the singular form shall include the plural when consistent with the content.

Agribusiness: Any individual, partnership, corporation, or organization primarily supplying services or goods (such as equipment, feeds, or supplies) to producers of marketable agricultural products.

Appeal: A procedure conducted in accordance with Sections 4465, 4466, 4468, 4470, 4471 and 4473 of the Act.

Area: Area shall be calculated from dimensions taken on a horizontal plane at the average grade level.

Bed and Breakfast: A building that is used as a residence and which also contains sleeping rooms, with or without individual sanitary facilities, for rental accommodation for durations not typically more than two (2) weeks, which serves breakfast to guests and may serve other meals to guests. An accessory building to a residence is not a Bed and Breakfast facility. A Bed and Breakfast will be considered to be a Home Business, Home Industry, or Home Occupation if it meets the criteria of that classification, and shall be regulated accordingly. (See also Lodging Establishment and Rooming and Boarding House).

Boundary Adjustment: Adjustment of property lines between adjacent lots that does not create any new lots, does not create any non-conforming lots, and does not impact access to any parcel.

Building: A structure designed, built or used as a shelter for persons, animals or property. Buildings shall include lunch wagons, travel trailers and mobile homes when sited in such a manner that they are not readily moveable.

Building Envelope: The location(s) on a lot within which a structure may be permitted to be built, the area outside of which may not be built upon because of these or other Regulations.

Campground: A place or business providing tenting or travel trailer access and accommodations for camping purposes where money or other valuable consideration is exchanged for such use.

Casual Sale: The occasional (not more than six (6) days per year) sale of goods on one's own residential property. Casual sale includes garage sales, yard sales, lemonade stands, and the like.

Childcare Home: A business providing childcare service within the provider's place of residence to not more than 10 children on a regular or continual basis for a fee. Childcare Homes serving 6 or fewer children do not require a Zoning Permit. [See also Daycare Center].

Club: A building or use catering exclusively to members and their guests for recreational, educational, civic, religious, fraternal, or other social purposes.

Commercial: An activity involving the provision of facilities, goods or services (other than by municipal, state or federal governments) to others in exchange for payment of a purchase price, fee, contribution or other object or consideration having value.

Community Care Facility: A facility licensed by the state which provides primarily non-medical residential care services to 9 or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, excluding members of the resident household or persons employed by the facility, on a 24-hour a day basis. [See also Residential Care Home/Group Home]

Community Center: A non-profit or government owned facility used for recreational, social, educational, or cultural activities for the benefit of the community.

Conditional Use: A use allowed in a particular Zoning District upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in [Section 3.1](#) and approved by the DRB.

Construction: Exterior substantial improvements or new assembly or placement of a structure on a site, including site preparations, excavation and grading related thereto.

Daycare Center: Any establishment, whether providing services in-home or in a separate non-residential facility, providing childcare service on a regular or continual basis for a fee and which does not meet the definition of a Childcare Home.

Density: The number of acres of land area required for a given number of residential units or uses. See [Section 2.3](#).

Driveway: A travel way that provides overland access for persons and motor vehicles to no more than two (2) lots, units, or principal uses.

Dwelling, Accessory: An efficiency or one bedroom apartment located within or appurtenant to a single- household dwelling, that is clearly subordinate to the single-household dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. See Section 6.1. [See also Use, Accessory].

Dwelling, Multi-Household: A structure containing three or more dwelling units, including units that are located one over the other and units in a row separated by one or more vertical common fire resistant walls.

Dwelling, Seasonal: A dwelling unit (including a hunting camp and seasonal camp) not used as a principal residence that may be occupied weekends and for brief periods during the year. Seasonal dwellings must meet all requirements of these Regulations pertaining to year-round dwellings.

Dwelling, Single-Household: A structure containing one dwelling unit. Mobile homes and modular or pre-fabricated housing meeting this definition shall be considered single-household dwellings.

Dwelling, Two-Household: A structure containing two single-household dwelling units. A single-household dwelling unit with an accessory dwelling is not a Two-Household Dwelling.

Dwelling Unit: A building or portion thereof, designed, occupied, or intended for occupancy by residents as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of its residents.

Earth Resource Extraction: The extraction of minerals, including solids such as sand and gravel, liquids such as water, and gases such as natural gas. This use may also include preparation activities such as crushing and washing customarily part of the mining/quarrying activity.

Existing Small Lot: Any lot in existence before the effective date of these Regulations that does not conform to the minimum lot area requirement in Table 2.3.

Farm Market: A market held in an open area or in a structure where groups of individual sellers offer agricultural and related products for sale to the public. Products typically include fresh produce, seasonal fruits and flowers, arts & craft items, food & beverages.

Farm Stand: A temporary or seasonally used structure for the display and sale of locally grown agricultural products.

Farm Structure: According to the Vermont Accepted Agricultural Practice Regulations [6 V.S.A. §4810, 10 V.S.A. §1021(f), and 10V.S.A. §1259(f) and (i)], a structure that is used by a person for agricultural production that meets one or more of the following:

- (a) is used in connection with the sale of \$1,000 or more of agricultural products in a normal year; or
- (b) is used in connection with the raising, feeding, and management of at least the following number of adult animals: four equines; five cattle or American bison; fifteen swine; fifteen goats; fifteen sheep; fifteen fallow deer; fifteen red deer; fifty turkeys; fifty geese; one-hundred laying hens; two-hundred and fifty broilers, pheasants, Chukar partridge, or Coturnix quail; three camelids; four ratites (ostriches, rheas, and emus); thirty rabbits; one hundred ducks; or one thousand pounds of cultured trout; or
- (c) is used by a farmer filing with the Internal Revenue Service a 1040(F) income tax statement in at least one of the past two years; or is on a farm with a business and farm management plan approved by the VT Secretary of Agriculture; or
- (d) is on a farm with a business and farm management plan approved by the VT Secretary of Agriculture.

Farming: The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or the raising, feeding or management of livestock, poultry, fish or bees; or the operation of greenhouses; or the production of maple syrup; or the on-site storage, preparation and sale of agricultural products principally produced on the farm; the on-site production of fuel or power from agricultural products or wastes produced on the farm; the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

Fence: An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Gas/Service Stations: Any building or land area used for the retail dispensing or sales of vehicular fuels. Gas/Service stations may have as an accessory use the sale of convenience food items and the repair of vehicles as described under Motor Vehicle Repair and/or Service.

Gross Floor Area/Gross Sales Area: Total floor area, including basements, ground floor, and upper floors designed or occupied for the principal use of a building (e.g. for an office building, the office and reception areas or for a retail store, the sales area).

Home Business: Home Business is a use of an accessory building or portion of a dwelling for a business which exhibits no apparent indications that a business exists. Uses otherwise listed in Table 2.2 may qualify as a home business if they meet the requirements of [Section 6.5\(A\)](#). [See also Home Occupation and Home Industry and [Section 6.5\(A\)](#)].

Home Industry: Use of a portion of a residential lot by a resident for an occupational business with not more than three full time equivalent employees who are not members of the residential household, and which could normally be expected to be customarily located in the area and that will not change the character of the neighborhood. Uses otherwise listed in Table 2.2 may qualify as a Home Industry if they meet the requirements of [Section 6.5\(C\)](#). [See also Home Business and Home Occupation and [Section 6.5\(C\)](#)].

Home Occupation: Use of a portion of a residential lot by a resident for an occupational business with not more than one full time equivalent employee who is not a member of the residential household, and which could normally be expected to be customarily located in the area and that will not change the character of the neighborhood. Home Occupations do not generate more than an average of 10 vehicle trips per weekday. Uses otherwise listed in Table 2.2 may qualify as a home occupation if they meet the requirements of [Section 6.5\(B\)](#). [See also Home Business and Home Industry and [Section 6.5\(B\)](#)].

Hotel: [See Lodging Establishment].

Household: One or more persons occupying a single dwelling unit, but not including individuals

or groups occupying rooming and boarding houses, clubs, lodging establishments and Bed & Breakfasts.

Industry, Light: A warehouse, wholesale, research, material and equipment storage, or light manufacturing facility customary in a small rural community which does not generate more than a yearly average traffic of 50 vehicles per day. Industry, Light includes saw mills, slaughter houses, lumber yards, and other similar uses customary in a small rural community.

Interested Person: A party who has participated in a public hearing on a subject application who may legally appeal to the DRB or Environmental Court, as prescribed by the Act, Section 4465, generally including any of the following:

- The party owning title to the subject property, or the designated agent of said party.
- A municipality or solid waste management district empowered to condemn it or have an interest in it.
- Persons owning or occupying property in the immediate neighborhood.
- Any ten voters or property owners in the Town who file a petition with the DRB alleging that the relief requested is not in accord with the policies, purposes or terms of the Plan or Development Regulations, and who have designated one person as representative.
- The Select Board of the Town, or of any adjoining town.
- Certain State agencies.

Kennels, Animal Shelter, Animal Boarding, Veterinary Office: An establishment in which dogs or other domesticated animals are medically treated, housed, groomed, bred, boarded, trained, or sold, for fee or compensation.

Land Development: The division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure; any mining or earth resource extraction; and any change in the use of any building or other structure, or land, or extension of use of land.

Landscaping: The enhancement of an expanse of natural land, which may take the form of lawns, trees, plants, and other natural materials such as rock, wood chips, and decorative features.

LEED Certified: The Leadership in Energy and Environmental Design (LEED) Green Building Rating System developed by the [U.S. Green Building Council](https://www.usgbc.org/) (USGBC), provides a suite of standards for the environmentally sustainable design, construction and operation of buildings and neighborhoods.

Lodging Establishment: A building or buildings containing rooms which are rented for money or other compensation as sleeping units for durations not typically more than two (2) weeks, each sleeping unit consisting of at least a bedroom and a bathroom or shared bathroom. Included are hotels, motels, tourist courts, cabins, motor lodges, and the like. (See also Bed and Breakfast and Rooming and Boarding House.)

Lot: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise

allowed by law, to be separately owned, used, developed, or built upon.

Lot, Corner: A parcel of land abutting upon two or more road at their intersection.

Lot Frontage: A boundary of a parcel on a public or private road.

Lot of Record: Any parcel, which individually, or as a part of a subdivision, has been recorded under the proper procedural steps in the office of the Fairfax Town Clerk.

Major Subdivision: The subdivision of land into ten or more lots within a continuous five year period; any subdivision requiring installation of new public streets; any non-residential subdivision; or any other subdivision classified as Major by the DRB at sketch plan review.

Minimum Lot Area: The smallest lot area on which a use may be located in a particular Zoning District. [see Table 2.3].

Minor Subdivision: The subdivision of land into nine or less lots within a continuous five-year period, which does not require the installation of new public streets or involve non-residential uses, or a subdivision otherwise classified as Minor by the DRB at sketch plan review. Note: A two-lot subdivision that qualifies for administrative review is not considered a Minor Subdivision.

Mobile Home: A Single-Household detached dwelling unit designed to be transported after fabrication on wheels or trailers to a prepared site. A mobile home contains substantially the same water supply and waste disposal systems as conventional housing. A sectional prefabricated house shall not be considered a mobile home.

Mobile Home Park: Any parcel of land under single or common ownership or control which is used to accommodate two or more mobile homes, but not including a premises used solely for the display or sales of mobile homes.

Modular (or Prefabricated) Housing: Dwelling units constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Motor Vehicle Repair, Small: An enclosed establishment of 3,000 square feet or less whose primary purpose is the repair and/or servicing of motor vehicles, farm, and/or construction equipment, including body shops, vehicle electrical and mechanical repair shops and the like.

Motor Vehicle Repair and/or Service: An enclosed establishment that is more than 3,000 square feet whose primary purpose is the major repair and servicing of motor vehicles, farm and/or construction equipment, including body shops, vehicle electrical and mechanical repair shops and the like. Sale of retail items incidental to the operation are allowed. Sale of motor vehicles may be allowed as an accessory use.

Motor Vehicle Sales: The use of any buildings, land area, or other premise for the display and sale of new or used motor vehicles, which may include any vehicle preparation or repair work

as an accessory use.

Non-conforming lot: [See Existing Small Lot].

Non-conforming structure: Structures in existence before the effective date of these Regulations, which do not conform to the requirements set forth in these Regulations. Structures located on existing small lots, which otherwise conform to these Regulations, including setbacks, are not considered nonconforming. Structures improperly authorized as a result of error by the Zoning Administrator or DRB are nonconforming.

Non-conforming Use: Uses in existence before the effective date of these Regulations, which do not conform to the requirements set forth in these Regulations. Uses located on existing small lots, which otherwise conform to these Regulations are not considered nonconforming. Uses improperly authorized as a result of error by the Zoning Administrator or DRB are nonconforming.

Park: A tract of land designated and used by the public for active and/or passive recreation.

Parking Space: An off-street area other than a loading space of not less than 200 square feet exclusive of access and maneuvering areas, ramps, landscaped areas, etc. to be used exclusively as a temporary storage space for one motor vehicle at a time.

Permitted Use: A use that requires a Zoning Permit; but does not typically require review by the DRB before the permit can be issued.

Personal or Professional Service: Establishments engaged in providing services involving the care of a person, personal goods or providing services based on a recognized profession. Including but not limited to: barbershop, beauty parlor, laundry, photographic studio, doctor, dentist, lawyer, engineer, certified public accountant, consulting firm, real estate broker or appraiser, chiropractor, planner, architect, funeral home, bank, daycare center and similar professions. [See also kennels, animal shelter, animal boarding, and veterinary office].

Places of Worship: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes: synagogue, temple, mosque, or other such place for worship and religious activities.

Planned Unit Development (PUD): A Planned Unit Development (PUD) is a flexible, efficient, and innovative development design of one or more lots or parcels as a single project to achieve a variety of objectives. PUDs are most commonly designed to shift the permitted density from one portion of a property to a smaller area to enable more efficient and concentrated development on a single parcel of land. [See [Section 3.4](#)].

Plat: [See Survey Plat].

Plot Plan: A plot plan is a detailed illustration of the proposed subdivision, which may be one

sheet or many sheets as necessary to make the information clear and legible. See Text Box 4.2 and Table 4.2.

Public Facility: Those facilities provided for and/or available to the residents of the Town, including sewage disposal, fire protection, town equipment garages, police protection, public and private hospitals, educational facilities, governmental administration buildings, sewage and water facilities, fire facilities, postal services, public parking garages and like facilities.

Recreation - Indoor: An enclosed structure designed and equipped for the conduct of sports and leisure time activities as a commercial establishment. Includes indoor bowling alleys, theaters, table tennis and pool halls, skating rinks, gymnasiums, swimming pools, hobby workshops, and similar places of indoor commercial recreation.

Recreation - Outdoor: An area of land designed and equipped for the conduct of sports and leisure time activities. Includes golf course, golf driving range, trap, skeet, and archery range, swimming pool, skating rink, tennis court, riding stable, park, beach, recreation stadium, skiing and similar places of outdoor commercial recreation.

Recreation – Public: Includes all recreational facilities supported/promoted or developed by the Town or School District that provide recreational opportunities to Town residents and visitors.

Residential Care Home or Group Home: A state licensed or registered residential care home serving not more than 8 persons who are handicapped or developmentally disabled as defined in 9 V.S.A. §4501. In accordance with the Act [§4412G], such a group home shall be considered by right to constitute a permitted Single-Household residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another such home within the Growth Center. For the purposes of these Regulations, a group home shall also include an emergency shelter for up to 8 adults and/or children.

Restaurant or Drinking Establishment: An establishment where food and/or drink are prepared and served on-site and may be consumed on or off-site.

Retail Sales: Establishments engaged in selling goods or merchandise to the general public and customary auxiliary uses and services incidental to the sale of such goods. Retail sales uses shall have buildings with retail space no greater than 7,500 square feet. For-profit sales operations, exceeding six days per year, shall be considered retail. Retail sales include but are not limited to: department stores, art galleries, grocery stores, drug stores, stationary stores, antique shops; and shops and stores for the sale of retail goods, agricultural products, forestry products, crafts, and the like.

Road: A travel way that provides overland access for persons and motor vehicles to three (3) or more residential and/or commercial lots, units, or principal uses.

Rooming and Boarding House: A residential building where more than two persons; are supplied with and charged for sleeping accommodations or sleeping accommodations plus meals. A Rooming and Boarding House differs from a Lodging Establishment, as defined in these

Regulations, primarily in that facilities such as a kitchen or bathroom may be shared by residents, and in that rentals are typically of more than two (2) weeks duration. However, a Rooming and Boarding House may be subject to State regulation as a lodging establishment. A Rooming and Boarding House differs from a Bed and Breakfast primarily in that meals are not necessarily provided to residents and rentals are typically of more than two (2) weeks duration. A Rooming and Boarding House differs from a Single-Household Dwelling primarily in that residency is contingent upon payment of money or other compensation to the owner. A Rooming and Boarding House must receive Conditional Use and Site Plan approval by the Development Review Board.

Screening: Shields or obscures one abutting or nearby structure or use from another or from a road. It may take the form of landscaping, or other site modifications such as berms, fences, and stone walls.

Seasonal Non-Profit Concession: A temporary facility operated by a non-profit organization providing goods or services.

Setback: The nearest distance allowed between any structure and the side or rear lot line or the centerline of a public or private road.

Setback, Front: Along a parcel's lot frontage, the nearest distance allowed between a structure and the centerline of a public or private road. The minimum front setback requirement shall apply to both frontages on a corner lot.

Setback, Yard: The nearest distance allowed between a structure and the side or rear lot line.

Sign: Any object, device, display, or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

Sketch Plan: An informal sketch of the proposed subdivision, the purpose of which is to enable the subdivider to save time and expense in reaching general agreement with the DRB or Zoning Administrator on the design of the subdivision and objectives and requirements of these Regulations. [See Text Box 4.2 and Table 4.2].

Small Off-Grid Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and that is not connected to the electric utility system grid and therefore not a net-metered system. Wind energy conversion systems which are regulated by the Public Service Board are not considered small off-grid wind energy systems for the purpose of these regulations.

Storage Facilities: A structure containing self-service separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Street: Street is considered synonymous with Road for the purposes of these Regulations. [See Road].

Street Line: The line dividing the street and a lot. Where the width of a street is not established, or cannot be determined the street line shall be considered to be twenty five (25) feet from the center of the street.

Structural Alteration: The expansion, reconstruction, enclosure, renovation or replacement of an existing structure which results in new floor space or footprint area or changes (repurposes) an existing floor space or footprint area to a new use.

Structure: Anything constructed, erected or placed and which requires a fixed location on, above, or below the ground in order to be used. A structure includes but is not limited to buildings, carports, swimming pools, freestanding solar arrays, and any other building features. Not included are sidewalks, driveways, fences, patios, and landscaping.

Structure, Accessory: A structure which is incidental and subordinate to the principal structure and is located on the same lot. Accessory structures include those that are accessory to residential principal structures and those that are accessory to commercial or other principal structures, such as in-ground swimming pools, garages, sheds, barns, and other out buildings.

Structure, Principal: A building or structure in which is conducted the main or principal use of the lot on which said building is located.

Structure Height: The vertical distance measured from the average grade at the base of the structure to the ridge or deck line of the roof. [See Section 5.2].

Subdivider: Any person, firm, corporation, partnership, or association who shall lay out for the purpose of sale or development or otherwise any subdivision or part thereof as defined in these Regulations, either for him or her self or others. The term shall include an applicant for Subdivision Approval.

Subdivision: Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development.

Survey Plat: A map drawn to scale by a licensed land surveyor on Mylar for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Survey Plats shall be prepared according to [Section 4.4\(A\)](#) and 27 V.S.A. Section 17.

Travel Trailer: Means travel trailer, tent trailer, camper trailer, truck camper, or any other device or conveyance so constructed as to permit its ready transport on public highways, and designed as temporary living/sleeping quarters. A travel trailer is in no way included under the Mobile Home definition.

Use: The specific purpose for which land or a building is arranged, designed, intended, or

engaged; or for which either land or a building is or is intended to be occupied.

Use, Accessory: A use incidental and subordinate to the principal use of the property and is located on the same lot. Accessory uses are either residential accessory uses or other accessory uses as defined below.

Use, Accessory Other: A use incidental and subordinate to a non-residential principal use of property and located on the same lot.

Use, Principal: A use directly involved with the primary purpose of ownership on a particular lot. Each residential use listed in Table 2.2 (Single-Household dwelling, two-household dwelling, multi-household dwelling, etc) is considered one principal use regardless of the number of dwelling units.

Use, Accessory Residential. A use incidental and subordinate to the principal residential use of the property and is located on the same lot. Accessory residential uses include but are not limited to accessory dwellings, home businesses, home occupations, and home industries, home childcare, bed and breakfasts, casual sales, and rooming and boarding houses.

Wireless Telecommunication Facility: A tower or other support structure, including antennae, related equipment, and base structures, which will extend 20 or more feet vertically, and be used primarily for communication or broadcast purposes to transmit or receive, communicate on or broadcast signals. [See [Section 6.9](#)]

Variance: The requested relief from the Development Regulations, to be adjudicated in conformance with Section 4469 of the Act. [See Section 3.3].